

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
November 21, 2016**

Members Present:

Robert Acosta
Frank Quijano
Alan Neff
Denise Ojeda
George Britton
Maria Cruz
Henry Rodriguez
Mary Rogers
Christopher Garcia
Paul Klein
Jesse Zuniga

Staff:

Catherine Hernandez, Planning Manager
Shepard Beamon, Senior Planner
Ted Murphree, City Attorney
Margaret Pahl, Senior Planner

Call to Order

Pledge of Allegiance to the U.S. and Texas Flags.

Ms. Rogers, called the meeting to order and called roll of the applicants for each case.

Arianne Villanueva, World Wide Translators, was present.

Case Number: A-16-183

Applicant: Walton Signage

Owner: Bubble Bath Properties ADA, LLC

Council District: 3

Location: 3726 S. New Braunfels Avenue

Legal Description: Lot 17, NCB 7589

Zoning: "C-2 S AHOD" Commercial Airport Hazard Overlay District with Specific Use Authorization for a Carwash

Case Manager: Shepard Beamon, Senior Planner

A request for 1) a 14 foot variance from the maximum free-standing height of 24 feet, as described in Section 28-239, to allow a single-tenant 38 foot pole sign and 2) a 55 square foot variance from the maximum 150 square feet of sign area to allow a sign with 205 square feet.

Shepard Beamon, Planner, presented the background information and staff's recommendation of the variances. He indicated 13 notices were mailed, 0 returned in favor, and 0 returned in opposition and no response from the Highland Hill Neighborhood Association.

Andrew Perez, City Sign Inspector, spoke for the need of the sign height because of the power lines, and trees.

Nicolas Lopez, Representative, stated the sign needs to be a certain height because of the trees that will be kept on the property and the power lines.

Darren Beech, Representative, spoke in favor and was available to answer any questions.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-16-183 closed.

MOTION

A motion was made by **Mr. Rodriguez**. "Regarding Appeal No. A-16-183, variance application for a variance from the maximum free-standing height of 24 feet to allow a single-tenant 38 foot pole sign and a 55 square foot variance from the maximum 150 square feet of sign area to allow a sign with 205 square feet, subject property description Lot 17, NCB 7589, situated at 3726 South New Braunfels Avenue, applicant being Walton Signage.

"I move that the Board of Adjustment grant the applicant's request for a variance to the subject property as described above, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship."

Specifically, we find that:

- 1) "Such variance will not be contrary to the public interest" in that **the public interest is represented by sign height limitations to create more visually appealing conditions along our streets while still providing opportunity for businesses to advertise. The variances would provide relief for a landscape issue with the property that is not common to other properties. The owner wishes to keep the trees and in doing so, the sign must be located further back, away from the major thoroughfare, requiring a larger sign face. The requested taller sign height and larger sign area would assist in promoting the business behind the existing vegetation.**
- 2) "Due to special conditions, a literal enforcement of the code would require that the applicant construct a sign to a height not to exceed 24 feet tall. During field visits staff noted the presence of many trees lining Ada Street and South New Braunfels Avenue. Without the additional height, these trees would block visibility of the sign if it were limited to 24 feet. The location of the sign at the rear of the property warrants a hardship that requires a larger sign area.
- 3) **The spirit of the ordinance calls for sign height limitations to encourage a neat and orderly development pattern. In this case, the requested variances ask for 14 feet greater in height. Staff finds that this request respects the spirit of the ordinance as**

it allows the owner of the property to identify the business for the public. Further, the request does exceed the height and area requirements for an Arterial Type A street classification, which include 40 feet in height and 240 square feet in area.

- 4) "Such variance will not authorize the operation of a use other than those uses specifically authorized in the "C-2 S AHOD" Commercial Airport Hazard Overlay District with Specific Use for a Carwash.
- 5) "Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located" in that the proposed sign is in scale with the surrounding community and serves to identify a new business. The South New Braunfels Avenue thoroughfare is lined with several pole signs and the request is within character of the commercial corridor.
- 6) "The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property in that that the trees planted along the South New Braunfels right-of-way would totally obscure a 24 foot tall sign. No business would be able to adequately advertise its location with a 24 foot tall sign along the commercial corridor." The motion was seconded by Ms. Cruz.

AYES: Rodriguez, Cruz, Klein, Acosta, Garcia, Zuniga, Britton, Neff, Quijano, Rogers

NAYES: Ojeda

THE VARIANCE IS GRANTED

Mr. Klein recused himself from the Board of Adjustment meeting, Case# A-17-006 at 1:25pm.

Case Number: A-17-006

Applicant: Stone Oak Care Center

Owner: Hardy Oak Development, LLC

Council District: 9

Location: 18803 Hardy Oak Blvd

Legal Description:

Lot 1, Block 8, NCB 17606

Zoning: "C-2 MLOD ERZD" Commercial Military Lighting Overlay

Edwards Recharge Zone District

Case Manager: Margaret Pahl, AICP, Senior Planner

Request

A variance request for 12 foot variance from the required Type B 15' rear bufferyard planting, as described in Table 35-510.

Margaret Pahl, Senior Planner, presented the background information and staff's recommendation of the variances. She indicated 18 notices were mailed, 1 returned in favor, and 1 returned in opposition with no neighborhood association.

Kim Wolff, representative/landscape architect, requested approval of the variance and was available to answer any landscaping questions.

Mr. Neff, addressed the bufferyard and lack of vegetation that affects the lighting but because the record shows there will be a screen fence he will support the item.

No citizens appeared to speak.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-17-006 closed.

MOTION

A motion was made by **Mr. Quijano**. "Regarding Appeal No. A-17-006, a request for a 12 foot variance from the 15 foot rear bufferyard, subject property Lot 1, Block 8, NCB 17606, situated at 18803 Hardy Oak Blvd, applicant being Stone Oak Care Center.

"I move that the Board of Adjustment grant the applicant's request for variances to the subject property as described above, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship."

Specifically, we find that:

- 1) "Such variance will not be contrary to the public interest" in that the public interest is represented by the quantity of plantings required in a bufferyard to separate incompatible uses. The Senior Care Center however will not generate the typical commercial impacts and therefore the bufferyard variance is not contrary to the public interest.
- 2) "Due to special conditions, literal enforcement of the prescriptive planting scheme would likely result in an unnecessary hardship. The applicant has presented a generous landscape plan along with a landscaped interior court for the benefit of the residents. In addition, a wide drainage easement is also located between the center and the nearby homes.
- 3) "The spirit of the ordinance will be observed in that the intent is to require a specific number of trees and shrubs to create some separation. The senior living center however does not conflict with the residential homes nearby and is not the typical commercial use for which the bufferyard was designed.
- 4) "Such variance will not authorize the operation of a use on the subject property other than those specifically permitted in the "C-2 MLOD ERZD" Commercial Military Lighting Overlay Edwards Recharge Zone District.
- 5) "Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located" in that

the proposed landscaping plan for the complex shows compliance with every other aspect of the requirements. The requested variance to reduce the plantings in the rear will be unnoticeable to the surrounding district.

- 6) "The plight of the owner of the property for which the variance is sought is due to unique circumstances in that the project is located adjacent to a wide drainage easement and has several internal gardens to benefit the residents of the project." The motion was seconded by **Mr. Rodriguez.**

AYES: Quijano, Rodriguez, Acosta, Garcia, Zuniga, Cruz, Britton, Ojeda, Neff, Rogers

Nays: None

Recused: Klein

THE VARIANCES ARE GRANTED.

Mr. Klein re-entered the Board of Adjustment Meeting at 1:45pm

Case Number: A-17-007

Applicant: Katie and Nicolas Carreon

Owner: Katie and Nicolas Carreon

Council District: 9

Location: 902 Steubing Oaks

Legal Description:

Lot 23, Block 27, NCB 19221

Zoning: "NP-10 MLOD ERZD" Neighborhood Preservation Military

Lighting Overlay Edwards Recharge Zone District

Case Manager: Shepard Beamon, Senior Planner

Request

A request for 1) a special exception for a six foot solid fence in the front yard of the property, as described in Section 35-514 (d), and 2) a request for a variance from the Clear Vision requirements, as described in Section 35-514 (a).

Shepard Beamon, Senior Planner, presented the background information and staff's recommendation. He indicated 26 notices were mailed, 4 in favor, 1 in opposition, and no registered neighborhood association.

Katie and Nicolas Carreon, applicant, explained the need for the fence due to safety of their children and neighborhood children and believe the fence has slowed traffic down.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-17-007 closed.

MOTION

A motion was made by Mr. Neff. "Regarding Appeal No. A-17-007, variance application for a request for a special exception for a six foot solid fence in the front yard of the property, subject property description Lot 23, Block 27, NCB 19221, situated at 902 Steubing Oaks, applicant being Katie and Nicolas Carreon.

"I move that the Board of Adjustment grant the applicant's request for a special exception to the subject property as described above, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship."

Specifically, we find that:

- A. *The special exception will be in harmony with the spirit and purpose of the chapter. The additional fence height is intended to provide safety, security, and privacy of the applicant. Reducing the fence height increases visibility from the street and could result in unnecessary hardship. The additional fence is intended to add additional safety for the family's young children from vehicular traffic.*
- B. *The public welfare and convenience will be substantially served. In this case, these criteria are represented by maximum fence heights to protect home owners, and also to provide for a sense of community. A six foot fence was built to provide additional space and safety for the family and their personal property. The six foot fence will serve to provide increased privacy and security of the property. This is not contrary to the public interest.*
- C. *The neighboring property will not be substantially injured by such proposed use. The fence will create enhanced security for the subject property and is highly unlikely to injure adjacent properties.*
- D. *The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought. The fencing does not detract from the character of the neighborhood.*
- E. *The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district. The owner wishes to keep the six foot fencing to provide a safe area for their family. Further, the rear and side yard of the property are much smaller than the surrounding homes, as the property is located at the bend of the street."* The motion was seconded by Mr. Garcia.

AYES: Neff, Garcia, Rodriguez, Zuniga, Cruz, Britton, Quijano, Rogers

NAYS: Klein, Acosta, Ojeda

THE SPECIAL EXCEPTION FAILED

Mr. Klein made a motion to reconsider case #A-17-007, Ms. Rogers called for a voice vote to reconsider the case and was unanimous.

Mr. Klein made a motion to reconsider case #A-17-007, "I move that the Board of Adjustment grant the applicant's request for a special exception for a 6 foot fence in the front yard as previously described with regard to special exception components. Additionally the special exception will not be contrary to the public interest if the 6 foot fence is relocated in a position that does not encroach into the 15 foot clearance required by the clear vision requirements of the City. Due to the special conditions, a literal enforcement of the ordinance would result in unnecessary hardship." Mr. Neff seconded the motion.

AYES: Klein, Neff, Rodriguez, Garcia, Zuniga, Cruz, Britton, Ojeda, Quijano, Rogers
NAYS: Acosta

SPECIAL EXCEPTION IS GRANTED

Case Number: A-16-184

Applicant: Jared Holbrook
Owner: Cari Morrison & Jared Holbrook
Council District: 9
Location: 10314 Dreamland
Legal Description:
Lots 21 & 22, NCB 11668
Zoning: "R-5 AHOD" Residential Single-Family Airport Hazard
Overlay District
Case Manager: Margaret Pahl, AICP, Senior Planner

Request

A request for a 4 foot variance from the minimum 20 foot rear setback, as described in Table 35-310-1, to allow a home 16 feet from the rear property line.

Margaret Pahl, Senior Planner, presented the background information and staff's recommendation of the variance. She indicated 16 notices were mailed, 3 returned in favor, 1 returned in opposition, and the Vance Jackson Neighborhood Association was in opposition.

Cari Holbrook, applicant, requested approval of the variance to gain all permits for her secondary dwelling.

The following citizen appeared to speak:

Nancy Klapp, spoke in favor.

June Katschick, President of the Vance Jackson Neighborhood Association, spoke in favor.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-16-184 closed.

A motion was made by Ms. Ojeda. "Regarding Appeal No. A-16-184, a 4 foot variance from the minimum 20 foot rear setback to allow a home 16 feet from the rear property line, subject property Lots 21 & 22, NCB 11668, situated at 10314 Dreamland, applicant being Jared Holbrook.

"I move that the Board of Adjustment grant the applicant's request for variances to the subject property as described above, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship."

Specifically, we find that:

- 1) "Such variance will not be contrary to the public interest" in that the public interest is represented by the minimum setbacks. According to the applicant, the nearest structure is 60 feet away.
- 2) "Literal enforcement of the ordinance will force the partial destruction of the recently constructed home, potentially an unnecessary hardship. The applicant is in the process of gaining all of the approvals and inspections in order to bring the home into compliance with codes and requirements. The four foot rear yard variance is one of the first steps in proceeding to accomplish this goal.
- 3) "The spirit of the ordinance will be observed in that the intent of the rear setback is to provide adequate separation for each home to increase the quiet enjoyment of a rear yard. The subject property is over a half-acre in size and the house is setback far from the front roadway.
- 4) "Such variance will not authorize the operation of a use on the subject property other than those specifically permitted in the "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District.
- 5) "Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located in that the building, as constructed, is hidden from view of the public right of way. The neighboring home to the rear however has expressed concern about the reduced setback. The Board will be asked to evaluate the impacts on the adjacent conforming structure in their decision regarding the requested variance.
- 6) "The plight of the owner of the property for which the variance is sought is due to unique circumstances which according to the applicant is the location of existing trees and the location of an old slab for use as a patio." The motion was seconded by Ms. Cruz.

AYES: Ojeda, Cruz, Klein, Acosta, Rodriguez, Garcia, Zuniga, Britton, Neff, Quijano, Rogers

NAYS: None

THE VARIANCE IS GRANTED.



Case Number: A-16-185

Applicant: Lucille Forcum

Owner: Lucille Forcum

Council District: 6

Location: 2730 Johnson Grass

Legal Description:

Lot 5, Block 40, NCB 18820

Zoning: "R-6 AHOD" Residential Single-Family Airport Hazard
Overlay District

Case Manager: Shepard Beamon, Senior Planner

Request

A request for a 20 foot variance from the platted 20 foot front setback, as described in Section 35-516 (o), to allow a carport to be on the front property line.

Shepard Beamon, Senior Planner, presented the background information and staff's recommendation of the variances. She indicated 26 notices were mailed, 2 returned in favor, and 0 returned in opposition and no neighborhood association.

Lucille Forcum, applicant, did not claim a hardship but reason for the carport was to protect their oversized vehicles from the hail and sun.

No citizens appeared to speak.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-16-185 closed.

A motion was made by Mr. Rodriguez. "Regarding Appeal No. A-16-185, variance application for A request for a 20 foot variance from the platted 20 foot front setback to allow a carport to be on the front property line, subject property description Lot 5, Block 40, NCB 18820, situated at 2730 Johnson Grass, applicant being Lucille Forcum.

"I move that the Board of Adjustment grant the applicant's request for a variance to the subject property as described above, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship."

Specifically, we find that:

- 1) "Such variance will not be contrary to the public interest" in that **the property owner will be able to enjoy a carport like other property owners in the community.**
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that **the property is located within a subdivision that includes a 20 foot platted front setback. The carport protects the owner's assets from the weather and keeps the garage cooler. The existing two-car garage would not fit two vehicles.**

- 3) "The spirit of the ordinance is observed and substantial justice is done" in that **the property owner will be able to benefit from a carport like others in the neighborhood.**
- 4) "Such variance will not authorize the operation of a use other than those uses specifically authorized in the **"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District.**
- 5) "Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located" in that **the request will allow the property owner to have a carport like others in the community. The applicant has identified eight other carports within a two block radius.**
- 6) "The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, **in that the neighborhood has a 20 foot minimum platted front setback and the home was built at the front setback, which limits any additions to the home.**" The motion was seconded by Mr. Zuniga.

AYES: Rodriguez, Zuniga, Acosta, Garcia, Cruz, Britton, Ojeda, Neff, Rogers

NAYS: Klein, Quijano

THE VARIANCES ARE GRANTED.

The Board of Adjustment convened for a 10 minute break at 3:05pm

The Board of Adjustment re-convened at 3:15pm

Case Number: A-17-001

Applicant: Kenneth Burts

Owner: Kenneth Burts

Council District: 10

Location: 3119 Satellite Drive

Legal Description:

Lot 5, Block 6, NCB 13641

Zoning: "R-6 AHOD" Residential Single-Family Airport Hazard
Overlay District

Case Manager: Shepard Beamon, Senior Planner

Request

A request for a 20 foot variance from the platted 30 foot front setback, as described in Section 35-516(o), to allow a carport to be ten (10) feet from the front property line.

Shepard Beamon, Senior Planner, presented background information, and staff's recommendation of the variance. He indicated 30 notices were mailed, 5 returned in favor, 1 returned in opposition, and the no neighborhood association.

Kenneth Burts, applicant, stated the carport provides shade for his property, and protects his vehicles.

No citizens appeared to speak.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-17-001 closed.

A motion was made by **Mr. Garcia**. "Regarding Appeal No. A-17-001, variance application for a request for a 20 foot variance from the platted 30 foot front setback to allow a carport to be ten (10) feet from the front property line, subject property description Lot 5, Block 6, NCB 13641, situated at 3119 Satellite Drive, applicant being Kenneth Burts.

"I move that the Board of Adjustment grant the applicant's request for a variance to the subject property as described above, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship."

Specifically, we find that:

- 1) *The variance is not contrary to the public interest. In this case, the public interest is represented by minimum setbacks to ensure compatible and safe development within the City of San Antonio. The proposed carport respects the 10 foot front setback required by the UDC, as it will only be 20 feet deep. Further, the proposed carport meets the side setback requirement. Staff finds that the request is not contrary to the public interest.*
- 2) *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship. The special condition present in this case is the presence of a large platted front setback. The applicant seeks to encroach into that setback by 20 feet. Staff finds that not allowing the applicant to do so would constitute an unnecessary hardship in that the depth permitted is insufficient to protect their vehicles.*
- 3) *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done. Granting the requested variance will result in substantial justice in that it allows the applicant to protect their vehicles with minor encroachment. Further, the Board previously approved a similar request for a carport at 9711 Astronaut Drive.*
- 4) *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located. The requested variances will not authorize the operation of a use on the subject property other than those specifically permitted in the "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District.*

- 5) *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located. The requested variance is unlikely to alter the essential character of the district. Permitting 20 foot encroachment is unlikely to detract from the neighborhood when considering that the structure is still 10 feet from the front property line, and there was a previous case with a similar request.*
- 6) *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located. The unique circumstance present in this case is the large platted front setback. If not for that, the zoning only requires the applicant to remain ten feet from the front property line, which the owner will meet.”* The motion was seconded by Mr. Neff.

AYES: Garcia, Neff, Klein, Acosta, Rodriguez, Zuniga, Cruz, Britton, Ojeda, Quijano, Rogers

NAYS: None

THE VARIANCE IS GRANTED.

Case Number: A-17-002

Applicant: Agustin de Leon

Owner: Agustin & Maria de Leon

Council District: 2

Location: 1005 Burleson

Legal Description:

Lot 8, Block A, NCB 1006

Zoning: “R-4 AHOD” Residential Single-Family Airport Hazard

Overlay District

Case Manager: Margaret Pahl, AICP, Senior Planner

Request

A request for a five foot variance from the five foot side setback, as described in Table 35-310-1, to allow a carport to be on the side property line.

Margaret Pahl, Senior Planner, presented the background information and staff’s recommendation of the variance. She indicated 32 notices were mailed, 0 returned in favor, 0 returned in opposition, and no response from Dignowity Hill Neighborhood Association.

Augustin de Leon, Applicant, utilized spanish translation services, requested the approval of the variance because of the crime in the neighborhood, flooding and hail.

No citizens appeared to speak.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-17-002 closed.

MOTION

A motion was made by **Mr. Neff**. "Regarding Appeal No. A-17-002, a request for a 5 foot variance from the minimum 5 foot setback to allow a carport on the side property line, subject property Lot 8, Block A, NCB 1006, situated at 1005 Burleson, applicant being Agustin De Leon.

"I move that the Board of Adjustment grant the applicant's request for variances to the subject property as described above, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship."

Specifically, we find that:

- 1) "Such variance will not be contrary to the public interest" in that the carport and the side wall will have to be reconstructed using fire-rated construction
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that the carport is already built and full of items requiring storage.
- 3) "The spirit of the ordinance will be observed in that the structure will require fire-rating to protect the adjacent property.
- 4) "Such variance will not authorize the operation of a use on the subject property other than those specifically permitted in the "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District.
- 5) "Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located" in that the property is not within the boundaries of the historic district.
- 6) "The plight of the owner of the property for which the variance is sought is due to unique circumstances in that the owner has already built the carport and is using it for storage." The motion was seconded by **Mr. Garcia**

AYES: None

NAYS: Neff, Garcia, Klein, Acosta, Rodriguez, Zuniga, Cruz, Britton, Ojeda, Quijano, Rogers

THE VARIANCE FAILED



Case Number: A-17-003

Applicant: Steve & Brenda Scott

Owner: John Stephen Scott & Brenda Scott

Council District: 9

Location: 2723 Oak Bluff

Legal Description:

Lot 49, Block 1, NCB 14131

Zoning: "R-6 NCD-4" Residential Single-Family Whispering Oaks

Neighborhood Conservation District

Case Manager: Margaret Pahl, AICP, Senior Planner

Request

A request for a 13 foot variance from the 30 foot platted front setback, as described in Section 35-516 (o) and the 30 foot Whispering Oaks Neighborhood Conservation District front setback, as described in Section 35- 335, to allow a carport to be built 17 feet from the front property line.

Margaret Pahl, Senior Planner, presented background, and staff's recommendation of the variance. She indicated 16 notices were mailed, 2 returned in favor, 0 returned in opposition, and no response from the Whispering Oaks Conservation District.

Steve Scott, applicant, requested the variance to be able to complete his carport. He presented photos of hail that fell recently that destroyed three of his vehicles.

The following citizens appeared to speak:

Mike McCowskie, spoke in opposition

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-17-003 closed.

A motion was made by **Ms. Ojeda** "Regarding Appeal No. A-17-003, a request for a 13 foot variance from the 30 foot platted front setback and the 30 foot NCD front setback to allow a carport 17 feet from the front property line, subject property Lot 49, Block 1, NCB 14131 situated at 2723 Oak Bluff, applicant being Steve Scott.

"I move that the Board of Adjustment grant the applicant's request for variances to the subject property as described above, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship."

Specifically, we find that:

- 1) "Such variance will not be contrary to the public interest" in that the carport will be 17 feet from the front property line, providing adequate setback in the public interest.

- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that the proposed front setback, while it is shorter than most in this neighborhood, will allow the owner a small area of covered parking.
- 3) "The spirit of the ordinance will be observed in that the intent is to provide large open front yards, with tree preservation. The addition of covered parking remains 17 feet from the property line, which is another 10 feet behind the curb, meeting the intent of the code.
- 4) "Such variance will not authorize the operation of a use on the subject property other than those specifically permitted in the "R-6 AHOD" Residential Single-Family Whispering Oaks Neighborhood Conservation District.
- 5) "Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located" in that the proposed carport will remain with a large 17 foot setback, be covered with building materials matching those of the house and therefore, the variance will not alter the character of the district.
- 6) "The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, in that the carport is located in a neighborhood with both a 30 foot front setback and NCD requirements that also require a 30 foot front setback. This is not merely financial and not created by the owner." The motion was seconded by **Mr. Rodriguez.**

AYES: Ojeda, Rodriguez, Acosta, Garcia, Zuniga, Cruz, Britton, Neff, Quijano, Rogers

NAYS: Klein

THE VARIANCE IS GRANTED.

Case Number: A-17-005

Applicant: Thong H. Nguyen

Owner: Thong H. Nguyen

Council District: 2

Location: 5606 Castle Glade Drive

Legal Description:

Lot 18, Block 20, NCB 15790

Zoning: "NP-10 MLOD ERZD" Neighborhood Preservation Military

Lighting Overlay Edwards Recharge Zone District

Case Manager: Shepard Beamon, Senior Planner

Request

A request for a 30 foot variance from the platted 30 foot front setback, as described in Section 35-516 (o), to allow a carport and a porch to extend into the platted setback.

Shepard Beamon, Planner, presented background information and staff's recommendation for the requested variance. He indicated 29 notices were mailed, 0 returned in favor, 0 returned in opposition, and no response from the Camelot 1 Neighborhood Association.

Thong Ngyuen, applicant, requested approval of the variance. He stated if he modifies the structure it may become unstable.

No citizens appeared to speak.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-17-005 closed.

A motion was made by **Mr. Neff**. "Regarding Appeal No. A-17-005, variance application for a request for a 30 foot variance from the platted 30 foot front setback to allow a carport to extend into the platted setback, subject property description Lot 18, Block 20, NCB 15790, situated at 5606 Castle Glade Drive, applicant being Thong Nguyen.

"I move that the Board of Adjustment grant the applicant's request for a variance to the subject property as described above, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship."

Specifically, we find that:

- 1) *The variance is not contrary to the public interest. The public interest is defined as the general health, safety, and welfare of the public. The carport meets the side setback requirement. It is also made of metal and poses little risk of fire spread. Lastly, the carport does not interfere with the Clear Vision requirements. As such, staff finds the request is not contrary to the public interest.*
- 2) *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship. Literal enforcement of the 30 foot platted front setback would result in the property owner not being permitted any carport, despite several other property owners enjoying carports within the neighborhood. The Board has recently approved the requests for several carports within the Camelot area. Staff finds that denying the request would result in an unnecessary hardship and justice would not be served.*
- 3) *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done. The spirit of the ordinance will be respected as the carport does not interfere with Clear Vision and does not encroach into the public right-of-way. Further, the carport is made of metal and will not increase fire risk. Lastly, the carport meets the side setback and will not increase water runoff on the adjacent property, or require trespass for maintenance. Therefore, the spirit of the ordinance will be observed.*
- 4) *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located. The requested variances will not authorize the operation of a use on the subject property other than those specifically permitted in the "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District.*

- 5) *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located. The requested variance seeks to reduce the front setback, similar to other carports in the community. Because the carport meets the side setback requirement and is composed of metal, there is little concern for fire spread, rainwater runoff, and the structure can be maintained without trespass.*
- 6) *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located. The unique circumstance present in this case is the 30 foot platted front setback which leaves no space for carport construction on the property. This is not merely a financial issue and was not created by the owner.”* The motion was seconded by Mr. Garcia.

AYES: Neff, Garcia, Klein, Acosta, Rodriguez, Zuniga, Cruz, Britton, Ojeda, Quijano, Rogers

NAYS: None

THE VARIANCE IS GRANTED

Case Number: A-17-004

Applicant: Marivel Martinez

Owner: Marivel Martinez

Council District: 3

Location: 210 Barrett Avenue

Legal Description:

Lot 12, Block 11, NCB 7693

Zoning: “R-6 AHOD” Residential Single-Family Airport Hazard

Overlay District

Case Manager: Shepard Beamon, Senior Planner

Request

A request for a three foot variance from the five foot side setback, as described in Section 35-310.01, to allow a carport to be located two feet from the side property line.

Shepard Beamon, Senior Planner, presented background information for the requested variance. He indicated 27 notices were mailed, 3 returned in favor, 0 returned in opposition, and Mission San Jose Neighborhood Association is in support.

Marivel Martinez, Applicant, stated her husband modified the carport as recommended by the Board of Adjustment at a previous meeting and request that the Board reconsider her case.

No citizens appeared to speak.

Mr. Quijano made a motion to move the case forward waiving the 1 year waiting period for previous denial of a various within 1 year. Mr. Klein seconded the motion. Ms. Rogers then called for a voice vote with all voting in the affirmative.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-17-004 closed.

A motion was made by Mr. Quijano, "Regarding Appeal No. A-17-004, variance application for a request for a three foot variance from the five foot side setback to allow a carport to be located two feet from the side property line, subject property description Lot 12, Block 11, NCB 7693, situated at 210 Barrett Avenue, applicant being Marivel Martinez.

"I move that the Board of Adjustment grant the applicant's request for a variance to the subject property as described above, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship."

Specifically, we find that:

- 1) *The variance is not contrary to the public interest. . In this case, the public interest is represented by setbacks that help to ensure that we have uniform, safe development within the City of San Antonio. A carport located two feet from the side property line is not contrary to the public interest as it lessens the risk of fire spread and allows for room for maintenance without trespass. The applicant has installed gutters on the carport to direct rainwater towards the street.***
- 2) *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship. The denial of the request would not allow the owner to have a carport to protect her vehicles, as the five foot side setback does not leave enough space for a carport of adequate size. Thus a literal enforcement would result in an unnecessary hardship.***
- 3) *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done. Granting the variance will result in substantial justice as there are several carports within the neighborhood, and removal of the carport would not allow the owner to enjoy a carport, as many others do within the district.***
- 4) *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located. The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District.***
- 5) *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located. A carport built two feet from side property line will not increase fire risk to the adjacent property and will provide adequate space for maintenance without trespass. Further, there will be no water runoff on the adjacent property. Lastly, carports are not uncommon within the district.***

- 6) *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located. The owner has modified the carport to best accommodate the needs of their family to best respect the side setbacks. There is no other location on the property to park vehicles or to construct a carport. This is no fault of the owner and is not merely financial.*” The motion was seconded by Ms. Cruz.

AYES: Quijano, Klein, Acosta, Rodriguez, Garcia, Zuniga, Cruz, Britton, Ojeda, Neff, Rogers

NAYS: None

THE VARIANCE IS GRANTED.



Directors Report: Staff gave the Board of Adjustment a choice of dates for a work session and Dec. 5, 2016 was selected.



There being no further discussion, meeting adjourned at 5:15 pm.

APPROVED BY: _____ OR _____

Chairman

Vice-Chair

DATE: 12/5/16

ATTESTED BY: _____

Executive Secretary

DATE: 12/6/16