

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
October 17, 2016**

Members Present:

Mary Rogers
Frank Quijano
George Britton
Maria Cruz
Jesse Zuniga
Christopher Garcia
John Kuderer
Roger Martinez
Henry Rodriguez
Seth Teel
Jay Gragg

Staff:

Catherine Hernandez, Planning Manager
Logan Sparrow, Senior Planner
Margaret Pahl, Senior Planner
Shepard Beamon, Planner
Paul Wendland, City Attorney

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.

All members voted in the affirmative.

Case Number: A-16-167

Applicant: Mark Granados

Location: 2024 Babcock

Legal Description: Lots 29 & 30, Block 2, NCB 11612

Zoning: "C-2 AHOD" Commercial Airport Hazard Overlay District

Request

A request for a 15 foot variance from the minimum 15 foot landscape bufferyard to eliminate the need for a buffer adjacent to residential zoning on both the rear and the side property lines.

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 no response from the Dreamhill Estates Neighborhood Association.

Kenneth Pruitt, applicant, stated he built the carport for protection for his family and vehicles, and was unaware of the city setback guidelines.

The following citizens appeared to speak:

Lori Rojas, spoke in favor of the buffer variance.

Roland Rojas, spoke in favor of the buffer variance.

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-16-167 closed.

MOTION

A motion was made by Mr. Quijano. "Regarding Appeal No. A-16-167 a request for a 15 foot variance from the minimum 15 foot landscape bufferyard to eliminate the need for a buffer adjacent to residential zoning on both the rear and the side property lines, subject property description Lots 29 & 30, Block 2, NCB 11612, located at 2024 Babcock applicant being Mark Granados.

"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 bufferyards to ensure that conflicting uses are appropriately separated. The owner is proposing to install an eight foot masonry wall in lieu of a bufferyard to reduce the impact on adjacent properties.**
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that one of the **adjacent residential property is a SAWS facility.**
- 3) "The spirit of the ordinance is **observed and substantial justice is done**" in that **the applicant is proposing to build an 8 foot masonry wall along the rear property line.**
- 4) "Such variance will not authorize the operation of a use other than those specifically permitted in the **"C-2 AHOD" Commercial 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 has been used commercially for decades.**

- 6) "The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, which in this case **is the proposed size of the building and the need for parking.**" The motion was seconded by **Mr. Garcia.**

AYES: Quijano, Garcia, Britton, Cruz, Zuniga, Martinez, Rodriguez, Gragg, Teel, Kuderer, Rogers

NAYS: None

THE VARIANCE IS GRANTED

Case Number: A-16-171

Case Number: A-16-171

Applicant: Joe Sirio

Location: 222 E. Glenn Avenue

Legal Description: Portions of Lots 21 & 22, Block 4, NCB 2903

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

Request

A request for a seven foot variance from the minimum rear 20 foot setback, to allow a rear home addition to be 13 feet from the rear property line.

Margaret Pahl, Senior Planner, presented the background information and staff's recommendation of the variance. She indicated 34 notices were mailed, 1 returned in favor, 0 returned in opposition, and no response from the Lone Star Neighborhood Association.

Joe Sirio, applicant, requested the variance to expand his home. He stated his family is growing with new children, and he would like to create their own space for proper child development.

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-16-171 closed.

MOTION

A motion was made by **Mr. Martinez**. "Regarding Appeal No. A-16-171 a request for a seven foot variance from the minimum rear 20 foot setback, to allow a rear building addition to be 13 feet from the rear property line, subject property description Portions of Lots 21 & 22, Block 4, NCB 2903, located at 222 E. Glenn Avenue, applicant being Joe Sirio.

"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 setbacks to ensure access to air and light. The requested seven foot variance to allow a rear yard addition still preserves 13 feet rear yard setback, adequate to protect the public interest.**
- 2) "Due to special conditions, literal enforcement of the 20 foot rear setback would likely result in an unreasonable hardship. The existing house is built in the middle of the lot with more than 10 feet on each side. To increase the building size, every exterior wall would need to be relocated five feet in every direction.
- 3) **The spirit of the ordinance will be respected by granting the requested variance to reduce the rear setback in that nine of the 15 residential districts require only 10 feet for rear yards.**
- 4) "Such variance will not authorize the operation of a use 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" **but instead allow the renovation and expansion of a small house on a corner lot. This will likely improve 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, which in this case **is that the existing house was built in the center of the lot, leaving large setbacks on every elevation. The rear addition is the best suited location to expand the home.**" The motion was seconded by Mr. Garica.

AYES: Martinez, Garcia, Quijano, Britton, Cruz, Zuniga, Rodriguez, Gragg, Teel, Kuderer, Rogers

NAYS: None

THE VARIANCE IS GRANTED.

Case Number: A-16-165

Applicant: Binkan and Ashlee Cinaroglu

Location: 4910 Haven Oak Drive

Legal Description: Lot 39, Block 2, NCB 17401

Zoning: "R-6 PUD MLOD-1 ERZD" Residential Single-Family Planned Unit Development
Camp Bullis Military Lighting Overlay Edwards Recharge Zone District

Request

A request for a two and a half foot variance from the maximum six foot fence height, as described in Section 35-514, to allow an eight and a half foot tall fence in the rear yard.

Logan Sparrow, Senior Planner, presented the background information and staff's recommendation of the requested variance. He indicated 29 notices were mailed, 1 in favor, 1 in opposition, and no response from the Woodland Park Neighborhood Association.

Binkan Cinaroglu, applicant, requested the variance to provide protection and privacy for his family.

The following citizens appeared to speak:

Kevin Burton, 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-16-165 closed.

MOTION

A motion was made by **Mr. Rodriguez**. "Regarding Appeal No. A-16-165, a request for a two and a half foot variance from the maximum six foot fence height to allow an eight and a half foot tall fence in the rear yard, subject property Lot 39, Block 2, NCB 17401 situated at 4910 Haven Oak Drive, applicants being Binkan & Ashlee Cinaroglu.

"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 fence height limitations to provide for privacy and security while maintaining a sense of community. The applicant states that, due to elevation changes along the rear property line, passersby are easily able to look into their yard, detracting from their enjoyment of it and their pool. The HOA has approved of the design, and the

applicant has submitted numerous examples of its use throughout this neighborhood. 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" in that a literal enforcement of the ordinance would result in the property benefiting from a fence no taller than six feet, which they already have in the form of the stone neighborhood perimeter fence. That fence, as demonstrated by the applicants concerns, does not grant the property owner enough privacy.**
- 3) **"The spirit of the ordinance will be observed in that the property owners will benefit from privacy similarly enjoyed by others in the neighborhood.**
- 4) **"Such variance will not authorize the operation of a use on the subject property other than those specifically permitted in the "R-6 PUD MLOD-1 ERZD" Residential Single-Family Planned Unit Development Camp Bullis 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 requested variance seeks to place fencing along the portions of the property that abut the public space. No fencing is proposed between the subject property and their neighbor. As such, the fence is unlikely to injure the adjacent property.**
- 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 unique circumstance present in this case is the elevation changes along the rear property line that allows passersby to easily view the applicant's rear yard. This is not the fault of the owner of the property, nor is this issue merely financial in nature." The motion was seconded by Mr. Martinez.**

AYES: Rodriguez, Martinez, Quijano, Britton, Cruz, Zuniga, Garcia, Gragg, Teel, Kuderer, Rogers

NAYS: None

THE VARIANCE IS GRANTED



Case Number: A-16-173

Applicant: Enrique Flores

Location: 119 Sun Street

Legal Description: Lot N. 39 ft. of 18 and S. 4 ft. of 19, Block 10, NCB 2908

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

Request

A request for a 5 foot variance from the 5 foot side setback, as described in Section 35-310.01, to allow a carport to be on the side property line and 2) a variance from the provision that requires an all-weather surface for residential parking, as described in 35-526(f)(1).

Shepard Beamon, Planner, presented the background information and staff's recommendation of the variances. He indicated 35 notices were mailed, 0 returned in favor, 0 returned in opposition, and no response from the Lone Star Neighborhood Association.

Enrique Flores, applicant, stated the request for the carport is to provide protection for 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-16-173 closed.

A motion was made by **Mr. Kuderer**. "Regarding Appeal No. A-16-173, a request for 1) a three (3) foot variance to allow a carport to be two (2) feet the side property line and 2) a variance from the provision that requires an all-weather surface for residential parking, subject property North 39 ft. of Lot 18 and the South 4 ft. of Lot 19, Block 10, NCB 2908, situated at 119 Sun Street, applicant being Enrique Flores.

"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 **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. The carport does not interfere with Clear Vision requirements and does not pose immediate threats to motorists. Further, if the variance is granted for the carport, the applicant has stated future plans to eventually pave the driveway once the carport has been completed.**
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that **a literal enforcement of the ordinance would not allow the owner to remove the carport and would not provide protection and shade from inclement weather.**
- 3) "The spirit of the ordinance will be observed in that **granting the requested variance would result in allowing the property owner to keep a carport that does not encroach into the front setback and provides needed protection for the owner's vehicles.**
- 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 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 carport does not conflict with overall appearance of the district. Future plans for**

the carport design include paving the driveway to better match the character of the surrounding properties.

- 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 being constructed to protect the owner's vehicles from harsh weather conditions, such as hail and high temperatures." The motion was seconded by Mr. Quijano.

Mr. Martinez made an amendment to the motion:

To remove the 2nd request of the variance; "a variance from the provision that requires an all-weather surface for residential parking"

Mr. Kuderer and Mr. Quijano agreed to the Amendment.

AYES: Kuderer, Quijano, Britton, Cruz, Zuniga, Garcia, Martinez, Rodriguez, Gragg, Teel, Rogers

NAYS: None

THE VARIANCE IS GRANTED.

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

Case Number: A-16-164

Applicant: Michael Gutierrez

Location: 5011 Crusade Drive

Legal Description: Lot 22, Block 4, NCB 13686

Zoning: "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District

Request

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

Shepard Beamon, Planner, presented the background information and staff's recommendation of the variance. He indicated 25 notices were mailed, 1 returned in favor, 1 returned in opposition, and no response from the Camelot 1 neighborhood Association.

Michael Gutierrez, applicant, stated the variance request is to provide protection for 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-16-164 closed.

A motion was made by **Mr. Rodriguez**. “Regarding Appeal No. A-16-164, a request for a 20 foot variance from the 30 foot platted front setback to allow a carport to be 10 feet from the front property line, subject property Lot 22, Block 4, NCB 13686 situated at 5011 Crusade Drive, applicant being Michael Gutierrez.

“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 subject property is located within a community with many carports. Further, the carport meets the side setback requirement. Lastly, the carport meets the city’s zoning front setback. 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” in **that the 30 foot platted front setback would result in the property owner not being permitted any carport, despite several other property owners enjoying carports of similar design. Staff finds that this would result in an unnecessary hardship.**
- 3) “The spirit of the ordinance will be observed in **that the requested variance still places the carport ten feet from the front property line; the same distance required by the city’s zoning code.**
- 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 requested variance seeks to reduce the front setback, similar to other carports in the community. Because the carport meets the side setback requirement 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, **in that 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.”** The motion was seconded by Ms. Cruz.

AYES: Rodriguez, Cruz, Quijano, Britton, Zuniga, Garcia, Martinez, Gragg, Teel, Kuderer, Rogers

NAYS: None

THE VARIANCES ARE GRANTED.

Case Number: A-16-166

Applicant: Victor Vidalez

Location: 1737 W. Mistletoe

Legal Description: Lot S 157 FT OF 10 & E 40 FT OF S 157 FT OF 11, Block 7, NCB 1959

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

Request

A request for a four foot variance from the required five foot side yard setback, as described in Section 35-310.01, to allow a carport to remain one foot from the side property line.

Shepard Beamon, Planner, presented background information, and staff's recommendation of the variance. He indicated 33 notices were mailed, 2 returned in favor, 0 returned in opposition, and the Woodlawn Lake Community Association is in opposition.

Linda Vidalez, applicant, stated the carport provides protection and ease for disabled family members to get into/out of home.

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-16-166 closed.

A motion was made by **Mr. Kuderer**. "Regarding Appeal No. A-16-166, A request for a four foot variance from the minimum five foot side setback to allow a carport one foot from the side property line, subject property being the South 157 feet of Lot 10 & the East 40 feet of the South 157 feet of Lot 11, Block 7, NCB 1959, situated at 1737 West Mistletoe, applicant being Victor Vidalez.

"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 defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by minimum setbacks to ensure that we have safe development within the City of San Antonio. The applicant built the carport one foot from the side property line. The applicant has added a gutter to prevent water from draining onto the adjacent property. The carport meets the front setback and does not interfere with the Clear Vision requirement.**

- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that **a literal enforcement of the ordinance will force the applicant to remove some of the structure and will not provide the owner with enough space to store vehicles nor provide adequate room for maneuvering, as the owner is disabled and prone to falling.**
- 3) "The spirit of the ordinance will be observed in that **granting the requested variance would result in substantial justice because it will allow the property owner to keep a carport that services the owner, who is disabled. The spirit of the ordinance is observed as the owner has constructed the carport to include gutters which prevent runoff on 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-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 carport has been designed to match the appearance of the primary dwelling and does not detract from the character of the neighborhood. The applicant has taken steps to ensure the protection of the adjacent property owner, including adding a gutter and constructing the carport to not obstruct visibility for other motorists.**
- 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 unique circumstance present in this case is that the owner has health issues and is disabled. The carport was built to not only protect the owners' vehicles from the elements but to offer protection from sun exposure.**" The motion was seconded by Mr. Gragg.

Mr. Martinez made an Amendment to the motion:

"For a three (3) foot variance from the minimum five foot side setback to allow a carport two (2) foot from the side property line"

AYES: Kuderer, Gragg, Quijano, Britton, Cruz, Zuniga, Garcia, Martinez, Rodriguez, Teel, Rogers

NAYS: None

THE VARIANCE IS GRANTED.

Case Number: A-16-169

Applicant: Joseph Sage

Location: 1327 Butler Drive

Legal Description: Lot 5, Block 24, NCB 17643

Zoning: "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District

Request

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

Shepard Beamon, Planner, presented the background information and staff's recommendation of the variance. He indicated 35 notices were mailed, 0 returned in favor, 0 returned in opposition, and no response from the Tara Neighborhood Association.

Joseph Sage, applicant, stated the requested variance is to provide protection, since he is a disabled veteran, and to protect his vehicles from weather damage.

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-16-169 closed.

MOTION

A motion was made by **Mr. Martinez**. "Regarding Appeal No. A-16-169, request for a 20 foot variance from the 20 foot platted front setback to allow a carport on the front property line, subject property Lot 5, Block 24, NCB 17643, situated at 1327 Butler Drive, applicant being Joseph Sage.

"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 **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. The carport does not interfere with Clear Vision requirements and does not pose any immediate risks for surrounding properties, such as water runoff or fire hazard.**
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that **a literal enforcement of the ordinance would not allow the owner to remove the carport and would not provide protection from inclement weather, such as hail or high temperatures.**
- 3) "The spirit of the ordinance will be observed in that **granting the requested variance would result in substantial justice because it will allow the property owner to keep a carport that has been constructed to direct any water runoff to the street. Further, the carport is constructed of metal and poses little fire risk.**

- 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 carport has been built to allow adequate room for maintenance without trespass. The carport meets the side setback and has little impact on the adjacent property.**
- 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 was constructed to help the efficiency of the home by deflecting heat away from the existing metal garage door and keep the home cooler, in addition to protecting the vehicles from harsh weather conditions.**" The motion was seconded by **Mr. Rodriguez**.

AYES: Britton, Cruz, Rodriguez

NAYS: Martinez, Quijano, Zuniga, Garcia, Gragg, Teel, Kuderer, Rogers

THE VARIANCE FAILED.

Case Number: A-16-170

Applicant: Armando Alvarado

Location: 331 Nassau Drive

Legal Description: Lot 17, Block 25, NCB 9747

Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District

Request

A request for 1) a 25 foot variance from the 25 foot platted front setback, as described in Section 35-516 (a), to allow a carport to be located on the front property line and 2) a five foot variance from the minimum five foot side setback, as described in Section 35-310.01, to allow a carport to be on the side property line.

Shepard Beamon, Planner, presented background, and staff's recommendation of the variances. He indicated 36 notices were mailed, 1 returned in favor, 0 returned in opposition, and no response from the Dellview Area Neighborhood Association.

Armando Alvarado, applicant, stated the requested variance is to protect his property. He also stated the carport is constructed of metal, and does not obstruct any surrounding views.

The following citizens appeared to speak:

Ruben Guerro, left the meeting

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-16-170 closed.

A motion was made by **Mr. Quijano**. “Regarding Appeal No. A-16-170, a request for 1) a 25 foot variance from the 25 foot platted front setback and 2) a five foot variance from the minimum five foot side setback to allow a carport to be on the side property line, subject property Lot 17, Block 25, NCB 9747, situated at 331 Nassau, applicant being Armando Alvarado.

“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 **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. The carport does not interfere with Clear Vision requirements. Further, the carport is constructed of metal and does not pose immediate threats of fire risk.**
- 2) “Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship” in that **a literal enforcement of the ordinance would not allow the owner to remove the carport and would not provide protection from inclement weather.**
- 3) “The spirit of the ordinance will be observed in that **granting the requested variance would result in substantial justice because it will allow the property owner to keep a carport constructed of metal and poses little fire risk.**
- 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 **carports are common on several properties along Nassau Drive and within the neighborhood. Further, the carport does not hinder views for motorists or the adjacent property.**
- 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 was constructed to protect the owner’s vehicles from harsh weather conditions, such as severe hail or heat. These circumstances are not created by the owner and are not merely financial.**” The motion was seconded by **Mr. Martinez.**

AYES: Gragg, Martinez, Britton, Cruz, Zuniga, Garcia, Rodriguez, Teel, Kuderer, Rogers
NAYS: Quijano

THE VARIANCE IS GRANTED.

Case Number: A-16-172

Applicant: Leonardo Trevino

Location: 5850 Castlebrook Drive

Legal Description: Lot 5, Block 2, NCB 15792

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

Request

A request for a 30 foot variance from the platted 30 foot front setback, as described in Section 35-316, 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 32 notices were mailed, 0 returned in favor, 0 returned in opposition, and no response from the East Village Neighborhood Association.

Leonardo Trevino, applicant, stated the requested variance is to protect his vehicles and to reduce water flooding.

The following citizens appeared to speak:

Juanita Luna, 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-16-172 closed.

A motion was made by **Mr. Rodriguez**. "Regarding Appeal No. A-16-172, a request for a twenty (20) foot variance from the official thirty (30) foot platted front setback to allow ten (10) feet from the front property line, subject property Lot 5, Block 2, NCB 15792, situated at 5850 Castlebrook Drive, applicant being Leonardo Trevino.

"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 **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. The carport does not interfere with Clear Vision requirements. Further, the carport does not encroach in to the side setback.**
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that **a literal enforcement of the ordinance would not allow the owner to remove the carport and would not provide protection from inclement weather.**
- 3) "The spirit of the ordinance will be observed in that **granting the requested variance would result in substantial justice because it will allow the property owner to keep a carport that provides room for maintenance without trespass.**
- 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 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 carport meets the side setback and will not increase water runoff on the adjacent property.**
- 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 was constructed to protect the owner's vehicles from harsh weather conditions. Further, the applicant has indicated that heavy rainfall has created a condition in such that rainwater has begun to pool in front of the garage and entry way. The carport and porch covering assist in the protection from the pooling and mosquitos by directing the rainwater towards the street, and away from the front of the home.**" The motion was seconded by Ms. Ojeda.

AYES: Rodriguez, Zuniga, Quijano, Britton, Cruz, Garcia, Martinez, Gragg, Teel, Kuderer, Rogers

NAYS: None

THE VARIANCE IS GRANTED

Mr. Kuderer made a motion to approve to proposed 2017 Board of Adjustment Calendar with the exception of the July 3, 2017 meeting. Mr. Garcia seconded the motion and all members voted in the affirmative.

Ms. Rogers made a motion to approve the September 19, 2016 minutes with all members voting in the affirmative.

Ms. Rogers made a motion to approve the October 3, 2016 minutes as corrected with all members voting in the affirmative.

Directors Report: None

There being no further discussion, meeting adjourned at 5:10 pm.

APPROVED BY: Mary E. Rogers OR _____
Chairman Vice-Chair

DATE: 11-7-16

ATTESTED BY: Melvin Ray DATE: 12/6/16
Executive Secretary