

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES**

December 19, 2016

Members Present:

Richard Acosta
Frank Quijano
George Britton
Maria Cruz
Jesse Zuniga
Henry Rodriguez
John Kuderer
Roger Martinez
Alan Neff
Seth Teel
Denise Ojeda

Staff:

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

Call to Order

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

Mr. Kuderer, called the meeting to order and called roll of the applicants for each case.

Arianne Villanueva, World Wide Translators, was present.

Case Number: A-17-022

Applicant: Jerry Arredondo

Owner: OHM NAMAHA, INC.

Council District: 2

Location: 6075 IH 10 East

Legal Description: S 188.29 ft. of Lot 9, Block 1, NCB 17978

Zoning: "C-3 AHOD" General Commercial Airport Hazard Overlay District

Case Manager: Margaret Pahl, AICP, Senior Planner

Request

A request for a 22 foot variance from the maximum 50 foot sign height, as described in Section 28-241, to allow a 72 foot tall freeway sign.

Margaret Pahl, Senior Planner, presented the background information and staff's recommendation of the variance. She indicated 4 notices were mailed, 0 returned in favor, 0 returned in opposition, and no Neighborhood Association.

Andrew Perez, Sign Inspector, spoke on the difficulty of measuring such high signs.

Jerry Arredondo, representative, answered all questions and requested approval.

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-17-022 closed.

MOTION

A motion was made by **Mr. Martinez**. "Regarding Appeal No. A-17-022 a request for a 22 foot variance from the maximum 50 foot sign height to allow a 72 foot tall freeway sign, subject property being S 188.29 ft. of Lot 9, Block 1, NCB 17978, situated at 6075 IH 10 East, applicant being Jerry Arredondo.

I move that the Board of Adjustment grant the applicant's request for 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 Chapter 28, would result in an unnecessary hardship.

Specifically, we find that:

1. *The variance is necessary because strict enforcement of this article prohibits any reasonable opportunity to provide adequate signs on the site, considering the unique features of a site such as its dimensions, landscaping, or topography; or*

A denial of the variance would probably cause a cessation of legitimate, longstanding active commercial use of the property;

The site is located beyond the exit when traveling west, creating a slight disadvantage in exiting for the hotel from this direction. Traveling east, the exit ramp is far in advance of the exit, eliminating the possibility of a view of the sign. Additional height is necessary.

2. *Granting the variance does not provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated*

Allowing an additional 22 feet is not a special privilege, but is needed in this situation for visibility.

3. *Granting the variance will not have a substantially adverse impact on neighboring properties.*

The property is not located directly at the intersection, removing it from the sign clutter on the corner.

4. *Granting the variance will not substantially conflict with the stated purposes of this article.*

The requested 22 foot variance will not conflict with the stated ordinance purposes, because the additional height is sometimes warranted.” The motion was seconded by **Mr. Rodriguez.**

AYES: Rodriguez, Neff, Cruz, Zuniga, Britton, Teel, Quijano, Kuderer, Acosta

NAYS: Ojeda, Martinez

THE VARIANCE IS GRANTED

Case Number: A-17-019

Applicant: Pace Exhibitions, LLC

Owner: Pace Exhibitions, LLC

Council District: 1

Location: 150 Camp Street

Legal Description: Lot 2, Block 5, NCB 2561

Zoning: “O-1.5 AHOD” Office Airport Hazard Overlay District

Case Manager: Margaret Pahl, AICP, Senior Planner

Request

A request for 1) an up to seven foot variance from the maximum 3 foot solid screen fence in the front yard; 2) a four foot variance from the maximum 6 foot rear yard fence height to allow 10 foot fencing around exhibition space.

Margaret Pahl, Senior Planner, presented the background information and staff’s recommendation of the requested variance. She indicated 20 notices were mailed, 0 in favor, 0 in opposition, and no response from the Lone Star Neighborhood Association.

Trey Jacobsen, representative, gave a presentation on Ruby City and the need for the fence and stated the fence was designed with the neighborhood in mind.

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-17-019 closed.

MOTION

A motion was made by **Mr. Quijano** “Regarding Appeal No. A-17-019, a request for 1) an up to seven foot variance from the maximum 3 foot solid screen fence in the front yard; 2) a four foot variance from the maximum 6 foot rear yard fence height to allow 10 foot fencing around exhibition space, subject property being Lot 2, Block 5, NCB 2561, situated at 150 Camp Street applicant being Pace Exhibitions, LLC.

I move that the Board of Adjustment grant the applicant’s request for 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. **This property is being developed for the public interest in art appreciation. In addition, the grade change from the Development Services parking lot down to the sculpture garden makes fencing challenging.**
2. **Literal enforcement of the ordinance would require that the art display be installed and removed on a daily basis, an unnecessary hardship. Another factor to consider is the change in grade along the property's southern boundary, where the city's employee parking lot is higher.**
3. **The spirit of the ordinance is the intent of the Code is to allow protection of private property with adequate fencing. This parcel is in a somewhat remote location without active uses after 5:00 pm. This location needs additional security, especially given the intended use as an art exhibition location.**
4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the "O-1.5 AHOD" Office Airport Hazard Overlay District.*
5. **The location is somewhat remote, along a local street adjacent to the San Pedro Creek. The applicant is proposing to develop the vacant parcel for art exhibition space and as such is requesting additional fence height. This additional height is particularly important adjacent to the Development Services' employee parking lot, which is unfenced. A landscape bufferyard will also be installed around the perimeter, improving 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, including a lack of natural surveillance typically provided by adjacent residents and passersby. In addition, the site is lower in elevation than the adjacent parking lot. Therefore, this site needs additional height as requested in the variance application."* The motion was seconded by Mr. Neff.

AYES: Quijano, Neff, Martinez, Britton, Acosta, Kuderer, Cruz, Zuniga, Ojeda, Teel, Rodriguez

NAYES: None

THE VARIANCE IS GRANTED

Case Number: A-17-018

Applicant: Edward Hernandez

Owner: Mauricio Marcushamer

Council District: 2

Location: 3006 Broadway

Legal Description: Lot 14, Block 12, NCB 3866

Zoning: "C-2 UC-1 RIO-1 AHOD" Commercial Broadway Urban

Corridor River Improvement Overlay Airport Hazard Overlay District

Case Manager: Shepard Beamon, Senior Planner

Request

A request for a special exception, as described in Section 35-514, to allow an eight foot solid fence in the rear yard of the property.

Shepard Beamon, Senior Planner, presented the background information and staff's recommendation of the requested variance. He indicated 21 notices were mailed, 1 in favor, 0 in opposition, and Mahnke Park neighborhood association is opposed.

Edward Hernandez, representative, answered all questions and asked for approval of the 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-17-018 closed.

MOTION

A motion was made by Mr. Neff. "Regarding Appeal No. A-17-018, a request for a special exception to allow an eight foot fence along the rear property line from the starting end line with the side of the proposed building, subject property Lot 14, Block 12, NCB 3866, situated at 3006 Broadway, applicant being Edward Hernandez.

I move that the Board of Adjustment grant the applicant's request for 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:

- A. *The special exception will be in harmony with the spirit and purpose of the chapter in that the UDC allows nine (9) foot rear fences for commercial zoned properties as a special exception, authorized under certain circumstances in accordance with specific factors as described in this report. If granted, this request would be in harmony with the spirit and purpose of the ordinance as the request is only for an eight foot fence.*
- B. *The public welfare and convenience will be substantially served by adding protection of rear yard and providing adequate screening between the less compatible commercial uses.*
- C. *The neighboring property will not be substantially injured by such proposed use as the subject property owner will construct the fence to meet the Clear Vision requirements for the neighboring driveway.*
- 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 in that rear yard wood fencing is not out of character in this neighborhood. The request will replace an existing six foot wooden fence. Thus, granting the exception will not detract from the character of the district.*
- E. *The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district. The purpose of the fencing standards is to protect the health, safety and general welfare of the public, enhance property values, and improve*

the appearance of the community. The owner is replacing a fence in need of repair and constructing it to meet the Clear Vision requirements. Therefore, the requested special exception will not weaken the general purpose of the district." The motion was seconded by Mr. Martinez.

AYES: Neff, Martinez, Cruz, Zuniga, Kuderer, Quijano, Britton, Rodriguez, Ojeda, Teel, Acosta

NAYS: None

THE VARIANCE IS GRANTED

Case Number: A-17-023

Applicant: Mario Gonzalez

Owner: Graystreet Presa LLC

Council District: 1

Location: 1226 S. Presa Street

Legal Description: Lots 7, 8, 14, 15, 16, A-19 & A-20, Block 7, NCB 734

Zoning: "IDZ NCD-1 AHOD" Infill Development Zone S. Presa / S. St

Mary's Neighborhood Conservation Airport Hazard Overlay District

Case Manager: Margaret Pahl, AICP, Senior Planner

Request

A request for 1) a half-story variance from the 2.5 story limitation, described in Section 35-335, to allow 3 story townhomes; and 2) a 30 foot variance from the minimum 80 foot lot depth, as described in Section 35-373, to allow multiple townhome lots with only 50 feet of lot depth.

Margaret Pahl, Planner, presented the background information and staff's recommendation of the variances. She indicated 36 notices were mailed, 2 returned in favor, 0 returned in opposition, and no response from the Lavaca Neighborhood Association.

Mario Gonzalez, representative explained in detail the design of the project and addressed the Boards questions.

Mr. Martinez made a motion to reconsider case #A-17-023 and waive the 12 month waiting period and was seconded by Ms. Ojeda. Mr. Kuderer called for a voice vote which passed unanimously.

Jesse Ortega spoke in opposition and agreed to work with the developer to address his issues.

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-17-023 closed.

A motion was made by Ms. Ojeda. "Regarding Appeal No. A-17-023, a request for 1) a half-story variance from the 2.5 story limitation, described in Section 35-335, to allow 3 story townhomes; and 2) a 30 foot variance from the minimum 80 foot lot depth to allow multiple

townhome lots with only 50 feet of lot depth, subject property being Lots 7, 8, 14, 15, 16, A-19 & A-20, Block 7, NCB 734, situated at 1226 S. Presa Street applicant being Mario Gonzalez.

I move that the Board of Adjustment grant the applicant's request for 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 public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by the design standards that are adopted to retain the residential scale of the historic fabric. For this project, the applicant is requesting three stories but will not exceed the allowed height, making the variance not contrary to public interest.**
2. **Literal enforcement of the ordinance would require that the design incorporate the second story of living space in the roof structure, since the first story is used for covered parking. In the extreme summer heat, tall ceilings assist in the cooling efforts, making this literal enforcement an unnecessary hardship. In addition, if the parking were not located under the building, then the vehicles would either be parking along the streets or the site would include an area of surface parking.**
3. **The intent of the Code is to limit buildings to 2.5 stories and 35 feet. The applicant is requesting a variance to allow the additional half-story while staying within the 35 feet in height. The private ownership of the townhome lot is proposed to be 50 feet in depth, but will include common area in both front and rear, observing the intent of the Code.**
4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the "IDZ NCD-1 AHOD" Infill Development Zone S. Presa/S. St. Mary's Neighborhood Conservation Airport Hazard Overlay District.*
5. **The applicant is clustering the taller townhomes along the busy corners of the parcel and proposing to retain the story limitation adjacent to the established residential uses, as shown on the site plan. The applicant has designed the proposed townhomes with windows and balconies relating to the streetscape. The half-story is setback from the front façade, minimizing its impact on the scale.**
6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, including the size and shape of the site, along with its location along a commercial corridor, making the design specifics challenging. The IDZ zoning district has allowances for additional stories for townhomes, in recognition of a design trend to park the vehicle below the living space. The variance will allow the requested additional half-story." The motion was seconded by Mr. Neff.*

AYES: Ojeda, Neff, Teel, Cruz, Rodriguez, Britton, Acosta, Quijano, Martinez, Kuderer, Zuniga

NAYS: None

THE VARIANCE IS GRANTED.

The Board of Adjustment recessed for 10 minute break at 3:00 pm

The Board of Adjustment reconvened at 3:10 pm

Case Number: A-17-008

Applicant: Dustin Brisco/Fulco Properties

Owner: Dustin Brisco

Council District: 1

Location: 1122 W. Craig Place

Legal Description: Lots 6, Block 45, NCB 1871

Zoning: "R-6 NCD-5 AHOD" Residential Single-Family Beacon Hill

Neighborhood Conservation Airport Hazard Overlay District

Case Manager: Shepard Beamon, Senior Planner

Request

A request for 1) a variance from the Beacon Hill Neighborhood Conservation District "NCD-5" residential provision that requires a front porch be at least 8 feet deep and 50% of the primary dwelling structure width when undergoing substantial rehabilitation; 2) a variance from the "NCD-5" provision to allow a front porch to be built as close as seven feet from the front property line; 3) a variance from the "NCD-5" minimum of 25% of the surface area on the front facade to be dedicated to window openings; and 4) a variance from the "NCD-5" provision that requires the original window size be maintained when replacing original windows.

Shepard Beamon: Senior Planner, presented the background information and staff's recommendation of the variance. He indicated 30 notices were mailed, 3 returned in favor, 0 returned in opposition, and no response from the Beacon Hill Neighborhood Association.

Dustin Brisco: applicant: stated he purchased the home a year ago and was unaware of the rules and will do what is needed to come in compliance.

Mark Spielman: spoke in opposition to items 1,2, 4 but support item 3

Cosima Colvin: spoke in opposition to items 1,2, 4 but support item 3

Jack Finger: Spoke in opposition to items 1,2, 4 but support item 3

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-17-008 closed.

A motion was made by **Mr. Neff**. "Regarding Appeal No. A-17-008, a request for 1) a variance from the NCD-5 provision that requires a front porch be at least 6 feet deep and 50% of the primary dwelling structure width when undergoing substantial rehabilitation; 2) a variance to allow a front porch to be built as close as **nine** feet from the front property line; 4) a variance

from the NCD-5 provision that requires the original window size be maintained when replacing original windows, subject property being Lot 6 and the East 12.5 ft. of Lot 5 and the West 12.5 ft. of Lot 7, Block 45, NCB 1871, situated at 1122 W. Craig Place, applicant being Dustin Brisco.

I move that the Board of Adjustment grant the applicant's request for 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 as the public interest is represented by "NCD-5" design requirements that help to ensure that we have uniform, safe development within the Beacon Hill neighborhood. The applicant is seeking the variances to best comply with the "NCD-5" design regulations for windows and front façade appearance. To accomplish this, the required setback of 16 feet minimum must be reduced. Should the applicant install an six (6) foot deep porch, there will still be adequate clearance from the front property line and would meet the side setback, reducing the risk of fire spread and water runoff to adjacent properties. The requested windows are not contrary to the public interest as they will comply with 2:1 window proportions and are similar in number to the property to the west.*
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in in that if the applicant chooses to construct a porch with a depth of 6 feet or less, the porch would need to encroach into the required setback. The literal enforcement of the ordinance would require the applicant to have a large surface area of the home to be windows. The home has a shorter front façade width and smaller footprint than many of the homes on the block.*
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done in that the intent of the design standards is not to replicate the styles, but ensure the historically common site/building configurations are perpetuated in the future. Since the porch was non-existing prior to the "NCD-5" requirements, a porch is not required, however, the applicant may construct a porch to better mimic the resemblance of the neighborhood. The windows are compliant with the 2:1 ratio required by the "NCD" and respect the intent of the guidelines.*
4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the "R-6 NCD-5 AHOD" Residential Single-Family Beacon Hill Neighborhood Conservation 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 as the addition of a porch will provide adequate clearance for adjacent properties and motorists, and does not interfere with Clear Vision requirements. Further, as the request does not encroach into the side setback, there is room for maintenance without trespass on adjacent properties or public right-of-way. Though the windows are not*

same size as the original, they do maintain a minimum vertical to horizontal dimension ratio of 2:1. The variances will not injure the adjacent properties or detract from the character of the neighborhood.

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 circumstances in this case are the current location and configuration of the home 15 feet from the front property, as it existed prior to the adoption of the "NCD-5" requirements. With the "NCD-5" requirements in place, such restrictions create difficult conditions to develop a home that best resembles the character of the neighborhood, which is no fault of the owner. Matching the original window frames is difficult as they have unique dimensions, and are not compliant with the 2:1 ratio. Lastly, complying with the "NCD-5" window percentage is more difficult as the subject property has a smaller square footage and shorter front façade width than other residences on the block."* The motion was seconded by Mr. Teel.

AYES: Neff, Teel, Quijano, Zuniga, Rodriguez, Acosta, Cruz, Britton, Ojeda, Martinez, Kuderer

NAYS: None

Ms. Ojeda made a motion "Regarding Appeal No. A-17-008, a request for a variance from the NCD-5 minimum of 20% of the surface area on the front facade to be dedicated to window openings, subject property being Lot 6 and the East 12.5 ft. of Lot 5 and the West 12.5 ft. of Lot 7, Block 45, NCB 1871, situated at 1122 W. Craig Place, applicant being Dustin Brisco.

I move that the Board of Adjustment grant the applicant's request for 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.*
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done in the intent of the design standards is not to replicate the styles, but ensure the historically common site/building configurations are perpetuated in the future. Since the porch was non-existing prior to the "NCD-5" requirements, a porch is not required. The windows will be compliant with the 20% ratio.*
4. *The variance will not authorize the operation of a use other than those uses specifically authorized.*

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.*
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 circumstances in this case are the current location and configuration of the home 15 feet from the front property, as it existed prior to the adoption of the "NCD-5" requirements. With the "NCD-5" requirements in place, such restrictions create difficult conditions to develop a home that best resembles the character of the neighborhood, which is no fault of the owner. Matching the original window frames is difficult as they have unique dimensions, and are not compliant with the 2:1 ratio." Mr. Britton seconded the motion.*

AYES: Ojeda, Britton, Quijano, Neff, Cruz, Zuniga, Teel, Rodriguez, Acosta, Martinez, Kuderer

NAYES: None

VARIANCE IS GRANTED.

The Board of Adjustment took a five minute recess at 4:27pm

The Board reconvened at 4:33pm

Case Number: A-17-014

Applicant: Ericka Hernandez

Owner: Ericka Hernandez

Council District: 7

Location: 3051 Big Horn Drive

Legal Description: Lot 13, Block 12, NCB 14305

Zoning: "NP-8 NCD-3 AHOD" Neighborhood Preservation Ingram Hills

Neighborhood Conservation District Airport Hazard Overlay District

Case Manager: Margaret Pahl, AICP, Senior Planner

Request

A request for 1) a four foot variance from the Ingram Hills Neighborhood Conservation District (NCD-3) required 25 foot minimum front setback, as described in Section 35-335 and 2) a nine foot variance from the 30 foot platted front setback, as described in section 35-516, to allow a porch to be 21 feet from the front property line.

Margaret Pahl, Senior Planner, presented background information, and staff's recommendation of the variance. She indicated 32 notices were mailed, 1 returned in favor, 0 returned in opposition, and no response from the Ingram Hills Neighborhood Association.

Ericka Hernandez, applicant, stated she has a very small porch and wanted more space. She indicated the Ingram Hills Neighborhood Association visited her home and are supporting Ms. Hernandez.

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-17-014 closed.

A motion was made by **Mr. Rodriguez**. "Regarding Appeal No. A-17-014, a request for 1) a four foot variance from the Ingram Hills Neighborhood Conservation District required 25 foot minimum front setback; and 2) a nine foot variance from the 30 foot platted front setback to allow a porch to be 21 feet from the front property line, subject property being Lot 13, Block 12, NCB 14305, situated at 3051 Big Horn Drive applicant being Ericka Hernandez.

I move that the Board of Adjustment grant the applicant's request for 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 public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by the minimum setbacks. The proposed porch will still be 31 feet from street edge, not contrary to public interest.**
2. **Literal enforcement of the ordinance will result in the owner not being able to add a useable porch area. Even if the building setback line were removed, it would only provide space for a five foot wide porch, an unnecessary hardship.**
3. **The spirit of the ordinance is the intent of the Code, rather than the strict letter of the law. In this case, the intent of the large front setback is to maintain a wide open front yard. The encroachment of a porch 9 feet will still provide a large setback from the street edge.**
4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the "NP-8 NCD-3 AHOD" Neighborhood Preservation Ingram Hills Neighborhood Conservation Airport Hazard Overlay District.*
5. **The ranch homes in this neighborhood could benefit aesthetically from the addition of a porch. Porches have been shown to increase natural surveillance, and to provide a place to visit with neighbors without inviting them inside. The variance will not injure the essential 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 for the subject property is that the house was built on the front setback and therefore has no room for an addition.* The motion was seconded by Ms. Cruz

AYES: Rodriguez, Cruz, Martinez, Neff, Kuderer, Quijano, Britton, Acosta, Ojeda, Teel,

NAYS: Zuniga

THE VARIANCE IS GRANTED.

Case Number: A-17-020

Applicant: Ida May Bisang

Owner: Ida May Bisang

Council District: 1

Location: 459 Dresdan Drive

Legal Description: Lot 5, Block 25, NCB 11386

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 minimum five-foot side setback, as described in Table 35-310, to allow a carport on the side property line.

Margaret Pahl, Senior Planner, presented the background information and staff's recommendation of the variance. She indicated 33 notices were mailed, 1 returned in favor, 0 returned in opposition, and no neighborhood association.

Ida May Bisang, applicant, stated she hired a contractor who did not pull the proper permits and did not build the carport to City specifications.

Joe Galindo: name was called but was not present to speak.

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-17-020 closed.

MOTION

A motion was made by Mr. Teel "Regarding Appeal No. A-17-020, a request for a five-foot variance from the minimum five-foot side setback, to allow a carport on the side property line, subject property being Lot 5, Block 25, NCB 11386, situated at 459 Dresdan Drive applicant being Ida May Bisang.

"I move that the Board of Adjustment grant the applicant's request for 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 public interest is the health, safety and welfare of the public, including the protection of vehicles from weather conditions.**
2. **Literal enforcement of the ordinance would require that the applicant remove that portion of the carport that infringes into the setback. Circumstances include the contractor offering to rebuild and enlarge the existing carport.**
3. **The spirit of the ordinance is the intent of the Code is to allow protection of vehicles under a roof, so long as the carport is fire-rated and gutters are installed.**
4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the “R-4 AHOD” Residential Single-Family Airport Hazard Overlay District.*
5. **The variance will not injure that adjacent property in that there are many existing metal carports still being used in the neighborhood.**
6. *The plight of the owner of the property is due to the fact that the contractor installed the larger carport along the side property line and will make the required changes to gain permit approval. ” The motion was seconded by Mr. Acosta.*

AYES: Teel, Acosta, Rodriguez, Cruz, Neff, Britton, Ojeda, Kuderer, Zuniga

NAYS: Martinez, Quijano

THE VARIANCE IS GRANTED

Case Number: A-17-021

Applicant: George A. Gonzalez

Owner: Rebecca Reyna Gonzalez

Council District: 6

Location: 714 SW 37th Street

Legal Description: Lot North 40 ft. of South 80.49 of 29, Block 10, NCB 8990

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

Case Manager: Shepard Beamon, Senior Planner

Request

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

Shepard Beamon, Senior Planner, presented the background information and staff’s recommendation of the variance. He indicated 21 notices were mailed, 1 returned in favor, 0

returned in opposition, and no response from the Greater Harmony Hills Neighborhood Association.

George A. Gonzalez, applicant, answered all questions and requested approval of the variance.

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-17-021 closed.

MOTION

A motion was made by **Ms. Ojeda**. "Regarding Appeal No. A-17-021, a request for a **four** foot variance from the minimum five foot side setback to allow a metal carport on the side property line, subject property being the North 40 ft. of the South 80.49 ft. of Lot 29, Block 10, NCB 8990, situated at 714 SW 37th Street, applicant being George Gonzalez.

I move that the Board of Adjustment grant the applicant's request for 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 as the carport is made of metal and will not impose any immediate fire threat to adjacent properties. Further, the carport has been designed with a gutter to eliminate water runoff and will not interfere with Clear Vision requirements.*
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that the home is located 10 feet from the side property line and enforcement of the ordinance would not allow the applicant to construct a carport that adequately cover the vehicle. Locating the carport further away from the home, in the rear yard, may create an unnecessary hardship for the homeowner to safely get from their vehicle to the home.*
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done in that the carport does not harm any adjacent properties, as it constructed of metal and does create water runoff on the adjacent property.*
4. *The variance will not authorize the operation of a use other than those uses specifically authorized 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 as there are several carports within 200 feet of the subject property, and within the surrounding neighborhood, that are built on both the side and front property lines. The carport is within the character of the district. Further, the owner has built the carport with a gutter to protect the neighboring 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, 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. Due to the limited space between the home and side property line, constructing a carport to meet the needs of the owner and meet the required side setback is not possible. This circumstance is no fault of the owner and not merely financial in nature.* The motion was seconded by Mr. Acosta.

AYES: Ojeda, Acosta, Martinez, Neff, Rodriguez, Cruz, Britton, Teel, Quijano, Kuderer
NAYS: Quijano

THE VARIANCE IS GRANTED

Case Number: A-17-024

Applicant: Salvador Navarro

Owner: Salvador Navarro

Council District: 6

Location: 5911 Hidden Dale Street

Legal Description:

Lot 3, Block 4, NCB 18834

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

Overlay District

Case Manager: Shepard Beamon, Senior Planner

Request

A request for a 15 foot variance from the 20 foot platted front setback, as described in Section 35-516 (o), to allow a carport to be five feet from the front property line.

Shepard Beamon, Senior Planner, presented the background information and staff's recommendation of the variance. He indicated 39 notices were mailed, 0 returned in favor, 2 returned in opposition, and no response from the Hidden Meadows Neighborhood Association.

Salvador Navarro: representative, utilized spanish translation services, stated the owner contracted him to remove old carport and replace with a new one. When permits were pulled he was informed he was in violation.

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-17-024 closed.

MOTION

A motion was made by Mr. Martinez. "Regarding Appeal No. A-17-024, a request for a 15 foot variance from the 20 foot platted front setback to allow a carport to be five feet from the front property line, subject property Lot 3, Block 4, NCB 18834, situated at 5911 Hidden Dale Street, applicant being Salvador Navarro.

I move that the Board of Adjustment grant the applicant's request for 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 as the carport will not impose any immediate fire threat to adjacent properties, or increase water runoff. Further, the carport will meet the side setback and will not interfere with Clear Vision requirements.*
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that the primary dwelling is located 25 feet from the front property and the property is located in a subdivision with a 20 foot platted front setback. A literal enforcement of the ordinance will not allow adequate protection of the owner's vehicles from the elements, as the platted setback only permits a five foot deep carport.*
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done in that the carport does not harm any adjacent properties, respects the established side setbacks, and will not interfere with the Clear Vision requirements.*
4. *The 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. The location of the carport allows for maintenance without trespass and will not increase water run-off on the adjacent properties. The carport does not detract from the character of neighborhood as the applicant has documented 15 other carports.*
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. Due to the platted setback and the location of the home, additional covered parking would not be possible on any other portions of the property, which is no fault of the owner."* The motion was seconded by Mr. Britton.

AYES: Martinez, Britton, Rodriguez, Cruz, Teel, Acosta, Ojeda, Quijano, Kuderer, Neff, Zuniga

NAYS: None

THE VARIANCE IS GRANTED

Directors Report: Staff will present the Board with 2017 list of topics for future worksessions for the New Year. Mr. Kuderer also informed the Board the Holiday celebration location was being moved from Mi Tierra to Blue Star.

There being no further discussion, meeting adjourned at 5:55 PM.

APPROVED BY: _____

OR

Chairman

Vice Chair

DATE: _____

1/9/17

ATTESTED BY: _____

Executive Secretary

DATE: _____

Jan. 10, 17