

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES**

February 20, 2017

Members Present:

Paul Klein
Frank Quijano
Denise Ojeda
Maria Cruz
George Britton
Henry Rodriguez
John Kuderer
Roger Martinez
Seth Teel
Mary Rogers
Richard Acosta
Jesse Zuniga

Staff:

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

Leticia Smith, SEFLA Languages, Interpreter, was present.

Mr. Rodriguez entered the Meeting at 1:05pm

Item # 1: Discussion of 2017 COSA Sign Code (Chapter 28) Updates & Summary of Proposed Major Code Changes. Possible Action for Recommendation of Proposed Sign Code.

Michael Shannon: Interim Development Services Director, gave a presentation of the Chapter 28 Sign Code changes and answered all questions.

The following citizens appeared to speak.

June Kachtik: spoke in favor
Susan Beavin: spoke in favor
Larry Gottsman: spoke in favor
Rob Killen: spoke in favor

Mr. Kuderer made a motion to pass Item as presented, Mr. Quijano seconded the motion. Ms. Rogers called for a voice vote and passed unanimously.

Case Number: A-17-056 was postponed.

Case Number: A-17-045

Applicant: Swanson Development Group
 Owner: Nabil Issa
 Council District: 7
 Location: 6647 Callaghan Road
 Legal Description: Lot 14, Block 1, NCB 12781
 Zoning: "C-2 AHOD" Commercial Airport Hazard Overlay District
 Case Manager: Margaret Pahl, AICP, Senior Planner

Request

A request for a 20 foot variance from the 30 foot rear setback requirement, as described in Table 35-310, to allow a new building to be located within 10 feet of the rear property line.

Margaret Pahl: Senior Planner presented the background information and staff's recommendation of the variance. She indicated 6 notices were mailed, 0 returned in favor, 0 returned in opposition, and no neighborhood association.

James Griffin: representative discussed how the applicant worked with the City to get the variances reduced from 5 to 1 and was available to answer all 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-17-045 closed.

MOTION

A motion was made by **Mr. Martinez** "Regarding Appeal No. A-17-045, a request for a 20 foot variance from the 30 foot rear setback to allow new convenience store to be 10 feet from the rear property line, subject property Lot 14, Block 1, NCB 12781, situated at 6647 Callaghan Road, applicant being the Swanson Development Group.

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) Such variance will not be contrary to the public interest in that **the site has had a service station with a carwash on it since 1987. The carwash is being replaced with a new building setback 10 feet from property line, reducing the impact on the adjacent residential uses.**
- 2) Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in **that literal enforcement of the 30 foot rear setback would make the service station redevelopment impossible. Traffic circulation required for both the convenience store and the gas pumps are complex.**
- 3) The spirit of the ordinance will be observed in **that the redevelopment as proposed will increase the overall landscaping area and will replace a car-wash with a building, reducing the noise.**
- 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 new project includes reducing the driveway/curb cuts and installing landscaping along both arterial streets, improving the character of the district. The redevelopment plan requires a 20 foot variance to one of the setbacks, but will mitigate this reduction with the installation of a new fence.**
- 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 due to several improvements to reduce the existing non-conformities, such as landscaping adjacent of both streets and reduction in driveway curb-cuts."** Mr. Klein seconded the motion.

AYES: Martinez, Klein, Rodriguez, Zuniga, Britton, Cruz, Teel, Ojeda, Quijano, Kuderer, Rogers

NAYS: None

VARIANCE IS GRANTED.

Case Number: A-17-049

Applicant: George Pettit

Owner: George Pettit

Council District: 8

Location: 8443 Hidden Meadow

Legal Description: Lot 21, Block 21, NCB 13644

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

Case Manager: Margaret Pahl, AICP, Senior Planner

Request

A request for a special exception, as described in Section 35-399.03, to allow a seven foot wrought iron fence in the side and rear yard of the property.

Margaret Pahl: Senior Planner presented the background information and staff's recommendation of the variance. She indicated 27 notices were mailed, 2 returned in favor, 0 returned in opposition, and no response from the Vance Jackson Neighborhood Association.

George Pettit: applicant has followed all guidelines and requested renewal of his request.

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-17-049 closed.

MOTION

A **motion** was made by **Mr. Teel**. "Regarding Appeal No. A-17-049, a request for a special exception to allow a seven foot wrought iron fence in the rear yard of the property, subject property description Lot 21, Block 2, NCB 13644 situated at 8443 Hidden Meadow, applicant being George Pettit.

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:

- 1) **The UDC allows fences as tall as eight feet as a special exception, authorized under certain circumstances in accordance with specific factors as described in this report. In this case, the location is adjacent to an alley, which allows the height. Additional height is also granted by right for a location adjacent to a collector street. While Rock Creek Run serves the purpose of neighborhood collector, it is currently classified as a local street. If granted, this request would be harmony with the spirit and purpose of the ordinance.**
- 2) **The public welfare and convenience can be served through the added protection of a taller rear yard fence, allowing the owner to protect his property.**
- 3) **The rear fence will create enhanced security for the subject property and is highly unlikely to injure adjacent properties.**
- 4) **Rear wrought iron fencing is not out of character in this neighborhood. Thus, granting the exception will not alter the character of the district.**
- 5) **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. Therefore, the requested special exception will not weaken the general purpose of the district. " The motion was seconded by Mr. Martinez.**

AYES: Teel, Martinez, Zuniga, Klein, Rodriguez, Cruz, Britton, Ojeda, Quijano, Kuderer, Rogers

NAYES: None

THE SPECIAL EXCEPTION IS GRANTED

Case Number: A-17-057

Applicant: Raymond Wilkinson

Owner: Raymond Wilkinson

Council District: 1

Location: 627 W. Lynwood Avenue

Legal Description: Lot 19 & 20, Block 23, NCB 6422

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

Neighborhood Conservation Airport Hazard Overlay District

Case Manager: Margaret Pahl, AICP, Senior Planner

Request

A request for 1) a 2 foot variance from the minimum 5 foot side setback, as described in Table 35-310, to allow a home addition 3 feet from the side property line; and 2) a 2 foot variance from the "NCD-5" Beacon Hill Neighborhood Conservation District requirement regarding the median front setback of 17.5 feet, as described in Section 35-335, to allow a porch addition to be 15.5 feet from the front property line.

Margaret Pahl: Planner presented the background information and staff's recommendation of the variances. She indicated 37 notices were mailed, 1 returned in favor, 0 returned in opposition, and received conditional support from the Beacon Hill Conservation Association.

Bryce Wilkinson: applicant stated they will comply with all recommendations and want to maintain the integrity of the neighborhood and asked for approval of their request.

Cosima Colvin: representative from the Beacon Hill Conservation Association gave their support to the front side but had concerns about the side request.

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-17-057 closed.

A motion was made by **Mr. Quijano**. "Regarding Appeal No. A-17-057, variance application for 1) a 2 foot variance from the minimum 5 foot side setback to allow a home addition 3 feet from the side property line; and 2) a 2 foot variance from the NCD-5 requirement regarding the median front setback of 17.5 feet to allow a porch addition to be 15.5 feet from the front property line, subject property description Lot 19 & 20, Block 23, NCB 6422, situated at 627 W. Lynwood Avenue, applicant being Raymond Wilkinson.

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, I find that:

1. *The variance is not contrary to the public interest. In this case, the public interest is represented by setbacks. The property owner is seeking a side setback variance to allow a building addition three feet from the property line, consistent with other buildings in the neighborhood. The requested front setback variance of two feet would allow the addition of an eight foot deep covered porch, consistent with the required depth described in the NCD design standards.*
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship. The special condition present in this case is that the requested side setback would allow the same property right given to other properties in the district. Literal enforcement in this case for both requested variances would result in an unnecessary hardship, specifically in the front by prohibiting a porch depth required by the NCD standards.*
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done. In this case, the UDC allows an "in-line" variance of 3 feet recognizing that older neighborhoods were established when 3 feet was the standard. Regarding the requested front setback variance, the spirit of the ordinance will be observed by allowing the addition of a porch which satisfies the standards required in the NCD.*
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 because the requested side setback variance is providing a larger setback than the previous carport provided, with the addition of fire-rated construction. The requested 2 foot front variance will allow the addition of a front porch, an essential feature of the conservation district, therefore contributing to the character.*
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 applicant is seeking approval of two requested variances which will make the proposed building modifications consistent with repeating patterns in the neighborhood."* The motion was seconded by Mr. Martinez.

AYES: Quijano, Martinez, Ojeda, Cruz, Teel, Klein, Zuniga, Rodriguez, Britton, Kuderer, Rogers

NAYS: None

THE VARIANCE IS GRANTED.

The Board of Adjustment convened for a 10 minute break at 2:50pm

The Board of Adjustment reconvened at 3:00pm

Case Number: A-17-053

Applicant: Joseph Milligan

Owner: Joseph Milligan

Council District: 2

Location: 1005 Hays Street

Legal Description: S. 100 feet of Lot 19, Block C, NCB 1655

Zoning: "R-5 H AHOD" Residential Single-Family Dignowity Hill

Historic Airport Hazard Overlay District

Case Manager: Margaret Pahl, AICP, Senior Planner

Request

A request for a 6 foot variance from the minimum 20 foot rear setback, as described in Table 35-310, to allow a covered deck 14 feet from the rear property line.

Margaret Pahl: Senior Planner presented the background information and staff's recommendation of the variance. She indicated 30 notices were mailed, 0 returned in favor, 1 returned in opposition, and no response from the Dignowity Hill Neighborhood Association.

Joseph Milligan: applicant has gone through all the proper channels and requested approval of his request.

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-17-053 closed.

A motion was made by **Mr. Kuderer**. "Regarding Appeal No. A-17-053, a request for a 6 foot variance from the minimum 20 foot rear setback to allow a deck to be 14 feet from the rear property line, subject property S. 100 feet of Lot 19, Block C, NCB 1655, situated at 1005 Hays Street, applicant being Joseph Milligan.

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) Such variance will not be contrary to the public interest in that the public interest is represented by the rear setback. For many residential districts, 10 feet is the standard.
- 2) Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that the deck provides a required exit and is only 12 feet wide, with the remaining rear yard open.

- 3) The spirit of the ordinance will be observed **in that the deck is the only structure encroaching into the rear setback, and the need for open space is still observed.**
- 4) Such variance will not authorize the operation of a use other than those specifically permitted in the **"R-5 H AHOD" Residential Single-Family Dignowity Historic 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 small deck is not visible from the street.**
- 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 a requirement for a rear exit, elevated above natural grade."** The motion was seconded by Mr. Teel.

AYES: Kuderer, Teel, Klein, Cruz, Rodriguez, Quijano, Britton, Zuniga, Ojeda, Martinez, Rogers

NAYS: None

VARIANCE IS GRANTED.

Case Number: A-17-048

Applicant: Roy R. Pachecano

Owner: Roy R. Pachecano

Council District: 1

Location: 434 King William Street

Legal Description: Lot 18, Block 5, NCB 746

Zoning: "R-6 H HS AHOD" Residential Single-Family King William

Historic Significant Airport Hazard Overlay District

Case Manager: Shepard Beamon, Senior Planner

Request

A request for a 7 foot variance from the 20 foot rear setback, as detailed in Table 35-310, to allow a home 13 feet from the rear property line.

Shepard Beamon: Senior Planner, presented background information, and staff's recommendation of the variance. He indicated 18 notices were mailed, 3 returned in favor and 0 returned in opposition. No response from the King William Neighborhood Association.

Roy R. Pachecano: applicant stated he has gone to great lengths to maintain the integrity of the neighborhood and wants the property to be around for future generations.

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-17-048 closed.

A motion was made by **Mr. Rodriguez**. “Regarding Appeal No. A-17-048, a request for a seven foot variance from the 20 foot rear setback to allow a home 13 feet from the rear property line, subject property being Lot 18, Block 5, NCB 746, situated at 434 King William Street, applicant being Roy Pachecano.

I move that the Board of Adjustment grant the applicant’s request for the 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 the rear setback to provide adequate distance from adjacent properties. The home has been modified to connect the primary dwelling to the primary dwelling. This historic home has existed, as is, with a 13 foot setback prior to when it was zoned “RM-4” Residential Mixed District in 2009, which requires a 20 foot rear setback. This 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 that the structure has existed with the 13 foot setback for several years as “RM-4” Residential Mixed District without causing any harm. Additionally, the neighborhood has several properties that do not meet a 20 foot rear setback, which is more typical in several older suburban communities.*
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 observed in that granting the variance will bring the property into compliance.*
4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the “R-6 H HS AHOD” Residential Single-Family King William Historic Significant 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. Since the structure has existed in this configuration since 2002 without issue, there can be no identified issue with the location of the structure. Further, the dwelling provides adequate room for maintenance without trespass.*

The plight of the owner of the property for which the variance is sought is due to unique circumstances. The unique circumstance is that the zoning setback, established by the 2001 Unified Development Code, imposes setbacks more strict than those that existed at the time the structure was built.” The motion was seconded by **Mr. Martinez**.

AYES: Rodriguez, Martinez, Kuderer, Cruz, Quijano, Zuniga, Klein, Teel, Ojeda, Britton, Rogers

NAYS: None

THE VARIANCE IS GRANTED.

Case Number: A-17-050

Applicant: Jose Nunez

Owner: Jose Nunez

Council District: 2

Location: 4431 Monaco Drive

Legal Description: Lot 25, Block 5, NCB 13510

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

Case Manager: Shepard Beamon, Senior Planner

Request

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

Shepard Beamon: Senior Planner presented the background information and staff's recommendation of the variance. He indicated 27 notices were mailed, 1 returned in favor, 1 returned in opposition and no response from the East Terrell Hills Neighborhood Association.

Jose Nunez: applicant stated he hired a contractor who informed him no permit was needed and asked for the Boards 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-17-050 closed.

MOTION

A motion was made by **Mr. Martinez** "Regarding Appeal No. A-17-050, a request for a 20 foot variance from the 30 foot platted setback to allow a carport on the front property line, subject property being Lot 25, Block 5, NCB 13510, situated at 4431 Monaco Drive, applicant being Jose Nunez.

I move that the Board of Adjustment grant the applicant's request for the 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 request is not contrary to the public interest as the carport does not encroach in the public right-of-way and does not obscure the view for the adjacent properties.*
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship. A literal enforcement of the ordinance would not grant the applicant the right to protect his vehicles. A 30 foot setback is considerably large and the home is built at the front setback, making it difficult to provide covered parking without encroaching into the setback.*

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 observed in that granting the variance would still protect the rights of adjacent property owners.*
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. The carport is within character of the neighborhood as there are similar carports within the neighborhood. Further, the carport is made of metal, reducing the risk of fire spread.*
6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances. The unique circumstance is that the platted front setback permits no addition in the front of the home. The owner has several vehicles that require adequate protection."* The motion was seconded by Mr. Kuderer.

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

NAYS: Klein

THE VARIANCE IS GRANTED

Case Number: A-17-052

Applicant: Pablo & Martha Villarreal

Owner: Pablo & Martha Villarreal

Council District: 6

Location: 2811 War Arrow Drive

Legal Description: Lot 15, Block 8, NCB 14538

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

Case Manager: Margaret Pahl, AICP, Senior Planner

Request

A request for a 19 foot variance from the minimum 30 foot platted front setback, as described in Section 35-516 (o), to allow a carport to be built 11 feet from the front property line.

Margaret Pahl: Senior Planner presented the background information and staff's recommendation of the variance. She indicated 25 notices were mailed, 2 returned in favor, 0 returned in opposition, and no response from the Thunderbird Hills Neighborhood Association.

Pablo Villarreal: applicant built the structure because of recent falls and fractures that his wife obtained and also so she can protect her vehicle and property.

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-17-052 closed.

MOTION

A motion was made by Mr. Teel. "Regarding Appeal No. A-17-052, a request for a 19 foot variance from the 30 foot platted front setback to allow a carport to be 11 feet from the front property line, subject property Lot 15, Block 8, NCB 14538, situated at 2811 War Arrow Drive, applicant being Pablo Villarreal.

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 setbacks that help to ensure that we have uniform, safe development within the City. The property owner is seeking to build a carport 11 feet from the front property line. If not for the platted setback, this distance would be permitted.
- 2) *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that the carport would be permitted on most residential single-family lots in the City of San Antonio.*
- 3) *The spirit of the ordinance will be observed by setbacks established in the Unified Development Code. Those setbacks are ten feet, a setback slightly smaller than the one proposed.*
- 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" in that carports are common within the neighborhood and the carport does not pose the threat of water runoff or maintenance with 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, which in this case is due to the platted setback. The proposed carport will satisfy the setbacks established in the UDC."* The motion was seconded by Mr. Martinez.

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

NAYS: Klein

THE VARIANCE IS GRANTED

Ms. Cruz excused herself from the Board of Adjustment meeting at 3:55pm.

Mr. Acosta sat in on her behalf for the remainder of the meeting.

Case Number: A-17-054

Applicant: Ray Anguiano

Owner: Ray Anguiano

Council District: 4

Location: 10515 Braddock Drive

Legal Description: Lot 4, Block 44, NCB 15910

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

Case Manager: Shepard Beamon, Senior Planner

Request

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

Shepard Beamon: Senior Planner presented the background information and staff's recommendation of the variance. He indicated 27 notices were mailed, 2 returned in favor, 0 returned in opposition, and no response from the Heritage Neighborhood Association.

Ray Anguiano: representative stated Ms. Espinoza is elderly and needs the carport for protection from the sun and rain.

No one 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-17-054 closed.

MOTION

A motion was made by Mr. Rodriguez, "Regarding Appeal No. A-17-054, a request for a 10 foot variance from the minimum 20 foot platted front setback to allow a carport and front porch to be as close as 10 feet from the front property line, subject property being Lot 4, Block 44, NCB 15910, situated at 10515 Braddock Drive, applicant being Ray Anguiano.

I move that the Board of Adjustment grant the applicant's request for the 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 the front setback requirement. The property owner is seeking to expand a front porch and to add a carport to be ten feet from the front property line. If not for the platted setback, this distance would be permitted.*
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship. The special condition present in this case is that the carport would be permitted on most residential single-family lots in the City of San Antonio. Denial of the requested variance would ultimately result in unnecessary hardship.*
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done. The spirit of the ordinance is served by the setbacks established in the Unified Development Code. Those setbacks are ten feet, the same distance as proposed in the design.*
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 design will meet the required front setback established in the Unified Development Code, and, as such, the design will not conflict with the essential character of the community.*
6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances. The plight of the owner is not merely financial in nature. They are seeking to build a carport and porch extension to meet the setback set forth in the Unified Development Code."* The motion was seconded by Mr. Zuniga.

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

NAYS: Klein

THE VARIANCE IS GRANTED

Case Number: A-17-055

Applicant: Altonia Johnson

Owner: Altonio Johnson

Council District: 2

Location: 5815 Castle Brook Drive

Legal Description: Lot 14, Block 1, NCB 15791
 Zoning: "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District
 Case Manager: Margaret Pahl, AICP, Senior Planner

Request

A request for 1) a 10 foot variance from the 30 foot platted front setback to allow carport to be 20 feet from the front property line and 2) a 5 foot variance from the 5 foot side setback, both as described in Table 35-310, to allow a second 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 24 notices were mailed, 0 returned in favor, 1 returned in opposition, and no response from the East Village Neighborhood Association.

Altonia Johnson: applicant stated they use the side carport for exercise and meditation as well as storing his boat and asked the Board 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-17-055 closed.

MOTION

A motion was made by **Mr. Martinez**, "Regarding Appeal No. A-17-055, a request for 1) a 10 foot variance from the 30 foot platted front setback to allow a carport to be 20 feet from the front property line and 2) a 4 foot variance from the 5 foot side setback, to allow a second carport to be approximately 1 foot from the side property line, subject property Lot 14, Block 1, NCB 15791, situated at 5815 Castle Brook Drive, applicant being Altonia Johnson.

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 that neighboring property is not negatively impacted by inadequate separation. **The requested variance to the platted front setback is not contrary to public interest, maintaining 20 feet from the front property line. For the side setback variance, with consideration of water diversion with this project will allow the existing carport from draining to the adjacent property.**
- 2) Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the special condition is the 1968 platted setback. Setbacks are justified regulations, meant to eliminate trespass and provide access for maintenance. The front setback meets this goal. A reduced side setback allows for adequate access to the adjacent property because the neighborhood home is farther from the property line, which allows for long term maintenance, while still providing enough width for the carport.**

- 3) The spirit of the ordinance will be observed in that **the front variance still provides a 20 foot setback. The modified side setback variance of four feet will allow a one foot side setback, observing the intent of room for maintenance.**
- 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” **in that the carport matches the architectural details of the home and contributes to the essential character of the district. The 20 foot setback provides an open yard and does not injure the adjacent property. A modified variation along the side property line will allow the carport to stay as it is from the side property line will mitigate the anticipated negative impacts, and not injure adjacent 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, which **in this case is due to the platted setback. The irregular shape of the lot and existing carport encroaching in the side end of platted setback which would reduce the usefulness of the carport which has already been built.”** Mr. Rodriguez seconded the motion.

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

NAYS: Klein

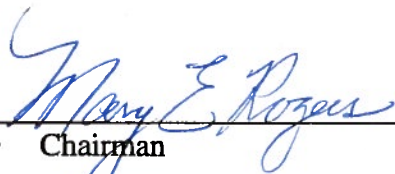
THE VARIANCE IS GRANTED

The February 6, 2017 Board of Adjustment Minutes were approved.

No Director's Report

There being no further discussion the meeting adjourned at 4:30pm.

APPROVED BY:



OR

Vice-Chair

DATE:



ATTESTED BY:


Executive Secretary

DATE:

