

**BOARD OF ADJUSTMENT  
OFFICIAL MINUTES**

**May 1, 2017**

**DRAFT**

**Members Present:**

Seth Teel  
Frank Quijano  
Jeff Finlay  
Maria Cruz  
George Britton  
Jay C. Gragg  
Richard Acosta  
Roger Martinez  
Jesse Zuniga  
Mary Rogers

**Staff:**

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

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**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.

Olga Valadez, Interpreter was present

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**Case Number: A-17-096**

Applicant: Nathan Bailes

Owner: Maria Vargas

Council District: 7

Location: 314 Donaldson

Legal Description: Lot 24, Block 38, NCB 1931

Zoning: "R-6 H RIO-1 AHOD" Residential Single-Family Monticello Park Historic River Airport Hazard Overlay District

Case Manager: Margaret Pahl, AICP, Senior Planner and Lauren Sage, Historic Preservation Specialist

**Request**

An appeal of the Historic Preservation Officer's denial regarding an application for a Certificate of Appropriateness to allow the installation of vinyl windows and wooden window screens. The applicant is appealing the decision of the Historic Preservation Officer to deny a request submitted April 2017, after the fact, to install vinyl windows with wood screens for the property

located at 314 Donaldson. The request was submitted to OHP as the result of illegal installation of the vinyl replacement windows.

Margaret Pahl: Senior Planner presented the background information and staff's recommendation of the variance. She indicated 25 notices were mailed, 5 returned in favor, 0 returned in opposition, and the Woodlawn Lake Neighborhood Association is opposed.

Kathy Rodriguez: Historic Preservation Office gave a presentation regarding the HPO's decision and was available to answer all questions.

Nathan Bailes: Representative stated once the insurance was not enough to cover for wood windows, the contractor went with vinyl instead with wood screens.

Febronio Guzman: spoke in favor.

Ruth Resendez: spoke in favor.

Sulema Villareal: spoke in favor.

Alice Carrillo: spoke in favor.

Henry Estrada: spoke in favor.

Rhonda Estrada: Spoke in favor.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-17-096 closed.

A motion was made by **Mr. Martinez**. "Regarding Appeal No A-17-096, a request to reverse the Historic Preservation Official's denial of a Certificate of Appropriateness to allow 5 wooden windows and 15 vinyl windows with wooden screens, subject property being Lot 24, Block 38, NCB 1931, situated at 314 Donaldson, applicant being Nathan Bailes.

I move that the Board of Adjustment grant the applicant's request for the appeal of an administrative official's decision regarding the subject property as described above, because the facts that we have determined, show that:

The subject property is setback from the street and includes wooden windows on the front façade. The applicant is offering to install wooden screens over the vinyl windows to conceal the vinyl windows; and the size and shape of the new windows are the same as the original windows." **Mr. Quijano** seconded the motion.

**AYES: Britton**

**NAYS: Martinez, Rodriguez, Zuniga, Teel, Cruz, Quijano, Rogers, Acosta, Finlay**

**APPEAL FAILED**

**Case Number: A-17-090**

Applicant: Celia Velasco

Owner: Celia Velasco

Council District: 5

Location: 230 Southlawn St.

Legal Description: Lot 8 and the North 25 feet of Lot 9, Block 4, NCB 7554  
 Zoning: “MF-33 AHOD” Multi-Family Airport Hazard Overlay District  
 Case Manager: Oscar Aguilera, Planner

### **Request**

A request for a special exception, pursuant to Section 35-399.04 of the UDC, to allow a 7.5 foot fence in the rear yard and a portion of the front yard.

Oscar Aguilera: Planner presented the background information and staff’s recommendation of the variance. He indicated 42 notices were mailed, 0 returned in favor, 0 returned in opposition, and no neighborhood association.

Celia Velasco: applicant stated she needed the fence to keep the peace due to verbal abuse from her neighbor. She also stated the fence will be 7ft not 7.5ft.

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-17-090 closed.

### **MOTION**

**A motion** was made by **Ms. Cruz**, “Regarding Appeal No. A-17-090, a request for a special exception, to allow up to a **7** foot fence in the rear yard and a portion of the front yard, subject property being Lot 8 and the North 25 feet of Lot 9, Block 4, NCB 7554, situated at 230 Southlawn Street, applicant being Celia Velasco.

I move that the Board of Adjustment grant the applicant’s request for the 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 special exception will be in harmony with the spirit and purpose of the chapter. The UDC allows eight foot fencing with a special exception, authorized under certain circumstances in accordance with specific factors. If granted, this request would be in harmony with the spirit and purpose of the ordinance.*
2. *The public welfare and convenience will be substantially served. The public welfare and convenience can be served by the added protection of a yard fence, allowing the owner to protect the subject property’s privacy and minimize conflict with the neighbor.*
3. *The neighboring property will not be substantially injured by such proposed use. The fence will create enhanced security for subject property and is highly unlikely to injure adjacent properties.*
4. *The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought. The fencing is not out of character in this neighborhood. Thus, granting the exception will not be detrimental to the character of the district.*

5. *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. Since the fence will not encroach into the clear vision area, the requested special exception will not weaken the general purpose of the district.* Mr. Martinez seconded the motion.

**AYES:** Cruz, Martinez, Britton, Acosta, Finlay, Zuniga, Teel, Gragg, Quijano, Rogers

**NAYS:** None

### **SPECIAL EXCEPTION IS GRANTED.**

#### **Case Number: A-17-093**

Applicant: Geronimo Guerra & Patricia Mejia

Owner: Geronimo Guerra & Patricia Mejia

Council District: 7

Location: 1714 W. Summit Avenue

Legal Description: Lot 28, Block 24, NCB 1946

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

Case Manager: Oscar Aguilera, Planner

#### **Request**

A request for a special exception, pursuant to Section 35-399.04 of the UDC, to allow an eight foot wood privacy fence in the rear yard (behind the façade) of the property.

Oscar Aguilera: Planner presented the background information and staff's recommendation of the variance. He indicated 28 notices were mailed, 1 returned in favor, 0 returned in opposition, and the Jefferson and Woodlawn Neighborhood Association are opposed.

Geronimo Guerra: applicant stated after purchasing the property with the existing fence they were cited by code for the fence height.

Robert Benke: spoke in favor

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-17-093 closed.

#### **MOTION**

**A motion** was made by **Mr. Teel**. "Regarding Appeal No A-17-093, a request for a special exception to allow an eight foot wood privacy fence in the rear yard, subject property being Lot 28, Block 24, NCB 1946, situated at 1714 W. Summit Avenue, applicant being Geronimo Guerra & Patricia Mejia.

I move that the Board of Adjustment grant the applicant's request for the 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 special exception will be in harmony with the spirit and purpose of the chapter. The UDC allows eight (8) foot rear fences as a special exception, authorized under certain circumstances in accordance with specific factors. If granted, this request would be harmony with the spirit and purpose of the ordinance.*
2. *The public welfare and convenience will be substantially served. The public welfare and convenience can be served by the added protection of rear yard fence, allowing the owner to protect children from drowning in the pool and protecting the subject property from burglaries.*
3. *The neighboring property will not be substantially injured by such proposed use. The rear fence will create enhanced security for the subject property and is highly unlikely to injure adjacent properties.*
4. *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. Rear yard privacy fencing is not out of character in this neighborhood. Thus, granting the exception will not be detrimental to the character of the district.*
5. *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. Therefore, the requested special exception will not weaken the general purpose of the district.” Mr. Martinez seconded the motion.*

**AYES:** Teel, Martinez, Zuniga, Acosta, Gragg, Cruz, Britton, Finlay, Quijano, Rogers

**NAYS:** None

**THE SPECIAL EXECEPTION IS GRANTED.**

**Case Number: A-17-092**

Applicant: Patricia Gomez Monroy

Owner: Patricia Gomez Monroy

Council District: 2

Location: 2222 IH 35 North

Legal Description: Lot 6, Block 13, NCB 1695

Zoning: “C-2 AHOD” Commercial Airport Hazard Overlay District

Case Manager: Margaret Pahl, AICP, Senior Planner

**Request**

A request for a 5 foot variance from the minimum 10 foot side setback, described in Table 35-310, to allow a new commercial building with a 5 foot side setback

Margaret Pahl: Senior Planner presented the background information and staff's recommendation. She indicated 17 notices were mailed, 0 returned in favor, 2 returned in opposition, and no response from the Government Hill Neighborhood Association.

Patricia Gomez Monroy: applicant requested Spanish interpretation; she stated they have many years of experiences in architecture and trying to help the neighborhood by catering to smaller businesses.

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-17-092 closed.

## MOTION

**A motion** was made by **Mr. Martinez**. "Regarding Appeal No A-17-092, a request for a 5 foot variance from the minimum 10 foot side setback to allow a new commercial building with a 5 foot side setback, subject property being Lot 6, Block 13, NCB 1695, situated at 2222 IH 35 North, applicant being Patricia Gomez Monroy.

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 public interest is represented by new investment in this area, contributing to revitalization.***
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship. **Literal enforcement of the setback would require the owner to reduce the building size, already small.***
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done. **The spirit of the ordinance represents the intent of the requirement. The zoning setback of 10 feet is triggered by the adjacent residential building, but would otherwise be zero.***
4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district 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. **The applicant is proposing to build a new commercial office building that will function as a good neighbor, closed in the evenings and on weekends. The new building will improve the streetscape.***

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 lot was likely created for residential uses, but was impacted by the expansion of the adjacent freeway, not the fault of the owner.*” The Motion was seconded by Mr. Gragg.

**AYES:** Cruz, Acosta, Finlay, Britton,

**NAYS:** Martinez, Teel, Zuniga, Gragg, Quijano, Rogers

## **THE VARIANCE FAILED**

The Board of Adjustment convened for 10 minute break at 3:20pm

The Board of Adjustment reconvened at 3:30pm

### **Case Number: A-17-094**

Applicant: Delia Ann Flores

Owner: Delia Ann Flores

Council District: 1

Location: 358 E. Woodlawn Avenue

Legal Description: Lot 11, Block 5, NCB 1711

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

Case Manager: Shepard Beamon, Senior Planner

### **Request**

A request for 1) a 3 foot variance from the 5 foot side setback to allow an accessory dwelling 2 feet from side property line; 2) a 3 foot variance from the 5 foot side setback to allow an accessory dwelling 2 feet from the rear property line; and 3) a 105 square foot variance from provision that an accessory dwelling unit shall not exceed 40% of the building footprint of the principal residence, all described in Section 35-371 (b).

Shepard Beamon: Senior Planner presented the background information and staff's recommendation of the variances. He indicated 41 notices were mailed, 3 returned in favor, 1 returned in opposition, and no response from the Tobin Hill Community Association.

Delia Ann Flores: applicant stated she needs the space for her handicapped brother. Due to the sensitivity of her job, he cannot live in her house 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-17-094 closed.

**A motion** was made by **Mr. Finlay**. “Regarding Appeal No A-17-094, a request for 1) a 3 foot variance from the 5 foot side setback to allow an accessory dwelling 2 feet from side property line; 2) a 3 foot variance from the 5 foot side setback to allow an accessory dwelling 2 feet from

the rear property line; and 3) a 105 square foot variance from provision that an accessory dwelling unit shall not exceed 40% of the building footprint of the principal residence, subject property being Lot 11, Block 5, NCB 1711, situated at 358 E. Woodlawn Avenue, applicant being Delia Ann Flores.

I move that the Board of Adjustment grant the applicant's request for the 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. *The variance is not contrary to the public interest. The public interest is defined as the general health, safety, and welfare of the public. In this case, the variances are not contrary to the public interest as the structure provides room for maintenance, will not create water runoff on the adjacent property, and will not injure the rights of the adjacent property owners.*
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship. An unnecessary hardship would result from the enforcement of the ordinance as the enforcement would result in the removal of a portion of a structure that has been in place for nearly 30 years.*
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done. Substantial justice will be done as the owner will be able to repair the structure and create a safe, habitable space.*
4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the district in which the request for a variance is located. 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. In older neighborhoods, such as this, it is common for accessory units to be located within the side and rear setbacks. The requests will not detract from the character of the district. Within the time span the structure has been in place, there has been no observed harm done to 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, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located. The unique circumstance existing on the property is that the structure in question was originally built in the current location as a two-car garage in line with the existing driveway. As there is an existing cement slab previously used for the garage, it is more feasible to build on the slab than elsewhere in the rear yard."* The motion was seconded by Mr. Rodriguez.

**AYES:** Finlay, Martinez, Cruz, Quijano, Teel, Zuniga, Britton, Acosta, Gragg, Rogers

**NAYS:** None



## THE VARIANCE IS GRANTED

### Case Number: A-17-091

Applicant: Rufina Carreno

Owner: Rufina Carreno

Council District: 5

Location: 1021 Keats Street

Legal Description: Lot 15, Block 11, NCB 8961

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

Case Manager: Shepard Beamon, Senior Planner

### Request

A request for a three (3) foot variance from the five (5) foot side setback, as described in Table 35-310, to allow a home addition two (2) feet from the side property line.

Shepard Beamon: Senior Planner presented the background information and staff's recommendation. He indicated 39 notices were mailed, 0 returned in favor, 0 returned in opposition, and neighborhood association.

Ruffina Carreno: applicant requested interpretation services. She stated the need for more room in her dining room 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-17-091 closed.

**A motion** was made by Ms. Cruz. "Regarding Appeal No A-17-091, a request for a three foot variance from the five foot side setback to allow a home addition two feet from the side property line, subject property being Lot 15, Block 11, NCB 8961, situated at 1021 Keats Street, applicant being Rufina Carreno.

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 side setbacks to ensure that the neighboring property is not negatively impacted by inadequate separation. As the home was built in 1946 and has been in the existing configuration since construction, it is highly unlikely the front addition's encroachment into the side setback will create any additional safety issues. Additionally, the home will meet the required 10 foot front setback.**

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship. The enforcement of the ordinance would result in the owner of the property relocating the addition elsewhere on the property, reconfiguring the site plan and making it difficult to have a functional home.*
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done. The intent of a side setback is to eliminate overcrowding and un-uniformed development of lots. The two foot side setback does provide adequate room for maintenance of the home without trespass and does not overcrowd the property, thus substantial justice will be done and the spirit of the ordinance will be observed. Also, the addition will provide a 10 foot setback in the front as required in the "R-5" zoning district.*
4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the district in which the request for a variance is located. 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. Many properties within the district have less than the required five foot side setback. The request will not extend past the existing home and will not be out of character of the neighborhood. Additionally, there are at least 10 feet of separation between the proposed addition and the neighboring home, 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 existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located. The unique circumstance is the configuration of the lot. In order to construct an addition that is aligned with, and best matches the appearance of, the existing home, there will need to be an encroachment into the side setback."* The motion was seconded by Mr. Britton.

**AYES:** Cruz, Britton, Quijano, Teel, Zuniga, Acosta, Finlay, Gragg, Martinez, Rogers  
**NAYS:** None

## **THE IS VARIANCE IS GRANTED**

**Case Number:** A-17-078

**Applicant:** Raul Rodriguez

**Owner:** Raul Rodriguez

**Council District:** 6

**Location:** 1843 Dulles

**Legal Description:** Lot 94, Block 6, NCB 17643

**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 20 foot platted front setback, as described in Table 35-310, to allow a carport 10 feet from the front property line and 2) a 3 foot variance from the 5 feet side setback, also described in Table 35-310, to allow a carport 2 feet from the side property line.

Margaret Pahl: Senior Planner presented the background information and staff's recommendation. She indicated 32 notices were mailed, 3 returned in favor, 0 returned in opposition and no response from the Tara Neighborhood Association.

Raul Rodriguez: applicant stated the structure is needed for the safety of his older wife and protection from the elements and the design will maintain the integrity of the home.

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-17-078 closed.

**A motion** was made by **Mr. Martinez**. "Regarding Appeal No A-17-078, a request for 1) a 10 foot variance from the 20 foot platted front setback to allow a carport 10 feet from the front property line and 2) a 3 foot variance from the 5 feet side setback to allow a carport 2 feet from the side property line, subject property being Lot 94, Block 6, NCB 17643, situated at 1843 Dulles, applicant being Raul Rodriguez.

I move that the Board of Adjustment grant the applicant's request for the 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. *The variance is not contrary to the public interest. In this case, the public interest is represented by adequate setbacks in order to allow air flow and light. The proposed variances will preserve access to air and light and allow for maintenance without trespass.*
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship. The zoning setback of 10 feet will provide an adequate front setback. The carport will encroach into the minimum side setback only slightly toward the front of the structure.*
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done. The intent of the Code is to preserve an open streetscape, which a 10 foot front setback can accomplish. The spirit of the Code will be observed.*
4. *The variance will not authorize the operation of a use other than those uses specifically authorized. The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District.*
5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*

**The applicant is requesting two variances to allow the construction of a carport. The variances will allow the applicant to secure a permit prior to construction. The variance will not injure the adjacent property or alter the character of the district.**

6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, 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 plight of the owner is that the subdivision was recorded with a 20 foot front setback, limiting construction toward the front property line. In addition, the pie-shaped lot on the cul-de-sac reduces the width of the lot at the front.” The motion was seconded by Mr. Finlay.**

**AYES: Martinez, Finlay, Britton, Gragg, Zuniga, Teel, Cruz, Acosta, Quijano, Rogers**

**NAYS: None**

**VARIANCE IS GRANTED.**

**Case Number: A-17-095**

Applicant: Alfonso and Juventina Varnador

Owner: Alfonso and Juventina Varnador

Council District: 5

Location: 126 Dunning

Legal Description: Lot 9 and E. 8 feet of Lot 8, Block 1, NCB 3142

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

Case Manager: Margaret Pahl, AICP, Senior Planner

**Request**

A request for a 4.5 foot variance from the minimum 5 foot side setback, as described in Table 35-310, to allow a carport 6 inches from the side property line.

Margaret Pahl: Senior Planner presented the background information and staff’s recommendation. She indicated 34 notices were mailed, 2 returned in favor, 2 returned in opposition and no response from the Roosevelt Park Neighborhood Association.

Alfonso and Juventina Varnador: applicants stated their neighbor had someone living in a tent in their back yard. They bathed and brushed their teeth outside. They did not want their young daughter exposed to that activity.

Irma Garcia Perez: spoke in opposition

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-17-095 closed.

**A motion** was made by Mr. Teel. “Regarding Appeal No A-17-095, a request for a 4.5 foot variance from the minimum 5 foot side setback to allow a carport 6 inches from the side property line, subject property being Lot 9 and E. 8 feet of Lot 8, Block 1, NCB 3142, situated at 126 Dunning, applicants being Alfonso and Tina Varnador.

I move that the Board of Adjustment grant the applicant's request for the 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. *The variance is not contrary to the public interest. The public interest is represented by adequate setbacks in order to allow air flow and light. The carport has been in this location for years.*
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship. Literal enforcement of the setback will eliminate the ability of the owner to have a carport over the driveway.*
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done. The intent of the Code is to provide a setback for maintenance without trespass.*
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. *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 applicant has had a metal carport in this location and recently installed plastic sheathing that will not be permitted to remain.*
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 plight of the owner is that they did not understand the Code requirements and installed materials that cannot be permitted. The motion was seconded by Mr. Britton.*

**An Amendment** was made to the motion by Mr. Martinez. Regarding Appeal No A-17-095, a request for a **2** foot variance from the minimum 5 foot side setback to allow a carport **3** feet from the side property line, subject property being Lot 9 and E. 8 feet of Lot 8, Block 1, NCB 3142, situated at 126 Dunning, applicants being Alfonso and Tina Varnador. The amendment was seconded by **Mr. Gragg**. A voice vote was taken and passed unanimously".

**AYES: Teel, Britton, Zuniga, Cruz, Martinez, Gragg, Finlay, Acosta, Rogers**

**NAYS: Quijano,**

**VARIANCE IS GRANTED.**

**Case Number: A-17-097**

Applicant: Norma Rodriguez

Owner: Norma Rodriguez

Council District: 4

Location: 3410 Fairmeadows Street

Legal Description: Lot 2, Block 10, NCB 14265

Zoning: "R-6 MAOZ AHOD" Residential Single-Family Military Airport Overlay Airport

Hazard Overlay District

Case Manager: Oscar Aguilera, Planner

### **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 10 feet from the front property line.

Oscar Aguilera: Planner presented the background information and staff's recommendation of the variance. He indicated 31 notices were mailed, 0 returned in favor, 1 returned in opposition, and no neighborhood association.

Norma Rodriguez: applicant requested interpretation services and stated her old carport was damaged due to the bad weather and was going to build to the same dimensions as before. When the permits were pulled they were told they need to follow the new code regulations.

Mary Moreno Moreno: spoke in opposition

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-17-097 closed.

**A motion** was made by **Mr. Finlay**. "Regarding Appeal No A-17-097, a request for a 20 foot variance from the 30 foot platted front setback, to allow a carport 10 feet from the front property line, subject property being Lot 2, Block 10, NCB 14265, situated at 3410 Fair Meadows Street, applicant being Norma Rodriguez.

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 public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by setback limitations to protect property owners and create a cohesive streetscape. The City's zoning setback of 10 feet provides this streetscape protection in other areas. Since the carport meets the side setback and the front setback will be 10 foot from the property line, the variance request from the recorded plat would not be contrary to the public interest.*
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship. Literal enforcement of the platted setback would not allow any carport. Providing equal treatment of enforcing the 10 foot zoning setback would provide adequate room for a carport.*

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done. The spirit of the ordinance represents the intent of the requirement. The City zoning setback is 10 feet the proposed carport meets this spirit. Further, the carport would provide room for maintenance without trespass.*
4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located. The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the “R-6 MAOZ AHOD” Residential Single-Family Military Airport Overlay 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 proposed carport will meet the side setback of 5 feet. There are other carports prevalent in the area, that are within the platted setback. A 20 foot variance from the 30 foot platted setback for a 10 foot front setback will be equivalent to the City’s established standard for front setback**
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 City of San Antonio has an established 10 foot front setback, applied in all residential districts, and the proposed carport meets this established setback.” The motion was seconded by Mr. Gragg.**

**AYES:** Finlay, Gragg, Acosta, Martinez, Cruz, Zuniga, Teel, Britton, Quijano, Rogers

**NAYS:** None

#### **VARIANCE GRANTED.**

The April 17, 2017 Board of Adjustment Minutes were approved.

Director’s Report: Assistant Director Melissa Ramirez announced the promotion of Catherine Hernandez to Development Services Administrator. Mr. Ted Murphree gave an update on the lawsuit situation.

There being no further discussion the meeting adjourned at 5:35pm.

APPROVED BY: \_\_\_\_\_ DATE: \_\_\_\_\_ Chairman

OR \_\_\_\_\_ DATE: \_\_\_\_\_ Vice-Chair

ATTESTED BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Executive Secretary