

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES**

June 19, 2017

DRAFT

Members Present:

Seth Teel
Frank Quijano
Denise Ojeda
Maria Cruz
George Britton
John Kuderer
Alan Neff
Jeff Finlay
Henry Rodriguez
Roger Martinez
Mary Rogers

Staff:

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

Olga Valadez, Interpreter was present

Case #A-17-126 was withdrawn

Case Number: A-17-123

Applicant: Charles Pope

Owner: GEN2 Development, LLC

Council District: 10

Location: 11711 O'Connor Road

Legal Description: Lot 24, NCB 15911

Zoning: "I-1 IH-1 AHOD" Industrial Northeast Gateway Corridor Airport Hazard Overlay Dist.

Case Manager: Margaret Pahl, AICP, Senior Planner

Request

A request for 1) a variance from the provision requiring 50% glass on the front facade; 2) a variance from the design standards to allow metal as an accent building material; 3) a 3 foot variance from the minimum 10 foot rear bufferyard and 4) a variance from the IH-1 pedestrian route landscaping, each as described in UDC 35-339.01 regarding Gateway Corridors.

Maragaret Pahl: Senior Planner She presented the background information and staff's recommendation of the variance. He indicated 11 notices were mailed, 1 returned in favor, 0 returned in opposition, and no neighborhood association.

Charles Pope: representative answered all questions regarding project and stated this was the fifth Taco Bell he has worked on in San Antonio 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-17-123 closed.

A motion was made by **Mr. Martinez**. "Regarding Appeal No., A-17-123, a request 1) a variance from the IH-1 50% glass requirement; 2) a 3 foot variance from the minimum 10 foot rear bufferyard; 3) a variance from the provisions to allow metal as an accent building material, and 4) a variance from the IH-1 pedestrian route provisions, subject property being Lot 24, NCB 15911, situated at 11711 O'Connor Road, applicant being Charles Pope.

I move that the Board of Adjustment grant the applicant's request for the variance to the subject property 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 design requirements to enhance gateway corridors. Since this property is not visible from the Interstate, the variances as requested are not contrary to the public interest.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*

The special condition present in this case is the distance from the corridor and the buildings blocking the view of this location from the frontage road. Therefore, literal enforcement of the ordinance would result in an unnecessary hardship.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

The spirit of the ordinance is to beautify the view of the traveling public along gateway corridors. Therefore, since this project is not visible from the highway, the variances do not conflict with the purpose of the code.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district permitted in the "I-1 IH-1 AHOD" General Industrial Northeast Gateway Corridor 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 Taco Bell Restaurant will provide an attractive reuse and the requested variances do not alter the essential character of the surrounding industrially zoned 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 “IH-1” gateway corridor design requirements impose significant design constraints on properties such as this that are removed from the freeway frontage.”
Mr. Rodriguez seconded the motion.

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

NAYS: None

VARIANCE GRANTED

Case Number: A-17-138

Applicant: Cheryl Cole

Owner: Brundage Mini-Storage, LTD

Council District: 4

Location: 10102 State Highway 151

Legal Description: Lot 99, Block 1, NCB 17642

Zoning: “C-2 GC-2 AHOD” Commercial Highway 151 Gateway

Corridor Airport Hazard Overlay District

Case Manager: Margaret Pahl, AICP, Senior Planner

Request

A request for a variance from the Highway 151 Gateway Corridor standards, as described in 35-339.01, to allow metal as an accent building material.

Margaret Pahl: Senior Planner presented the background information and staff’s recommendation of the variance. She indicated 10 notices were mailed, 0 returned in favor, 0 returned in opposition, and no neighborhood association.

Cheryl Cole: representative stated this particular style is the best possible application. This product is the new standard and gives the property great curb appeal.

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-17-138 closed.

MOTION

A motion was made by **Mr. Kuderer**, “Regarding Appeal No., A-17-138, a request for a variance from the Gateway Corridor standards to allow metal as an accent building material,

subject property being Lot 99, Block 1, NCB 17642, situated at 10102 State Highway 151, applicant being Cheryl Cole.

I move that the Board of Adjustment grant the applicant's request for the variance to the subject property 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 good design, and minimal use of metal as an accent building material. Therefore, the variance is not contrary to public interest.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
Literal enforcement would require that the owner change the building plans of an already issued plan set, an 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 defined as the intent of the code rather than the exact letter of the law. The intent of this overlay district is to create an attractive gateway corridor for the traveling public, which is observed by the proposed design.
4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district permitted in the "C-2 GC-2 AHOD" Commercial Gateway Corridor 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 a variance from the provision in the corridor overlay standards to allow metal as an accent material. In the proposed application, the metal compliments the design and contributes to 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 unique in that they were not given the corridor overlay standards in time to design around them. Instead, they were given a permit to construct the project with metal as an accent material, a condition that was not the fault of the owner." Mr. Rodriguez seconded the motion.

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

NAYS: None

VARIANCE IS GRANTED.

Case Number: A-17-121

Applicant: HDC Freedom Hills, LLC

Owner: HDC Freedom Hills, LLC

Council District: 4

Location: 6703, 6707, 6011, 6715 Freedom Ranch; 6603 Freedom Ridge

Legal Description: Lot 28-31, Block 146, NCB 15228; Lot 3, Block 153, NCB 15228

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

Case Manager: Shepard Beamon, Senior Planner

Request

A request for 1) a 10 foot variance from the 20 foot rear setback on Lots 28-31 to allow a 10 foot rear setback and 2) a 5 foot variance from 20 foot rear setback on Lot 3 to allow a 15 rear setback, as described in Section 35 -310.01.

Shepard Beamon: Senior Planner presented the background information and staff's recommendation of the variance. He indicated 84 notices were mailed, 0 returned in favor, 0 returned in opposition, and no response from the People Active in Community Effort.

Brady Braggs: representative stated the irregular shaped properties made it difficult to use, triggering the variance request and also answered all the Boards 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-17-21 closed.

MOTION

A motion was made by **Mr. Neff**. "Regarding Appeal No. A-17-121, a request for 1) 10 foot variance from the 20 foot rear setback on Lots 28-31 to allow a 10 foot setback and 2) a 5 foot variance from the 20 foot rear setback on Lot 3 to allow a 15 foot setback, being Lots 28-31, Block 146, NCB 15228; Lot 3, Block 153, NCB 15228, located at 6703-6715 Freedom Ranch and 6603 Freedom Ridge, applicant being HDC Freedom Hills, LLC.

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, given the lot constraints on the subject properties, granting the variances still provides adequate accessibility to light, air, and open space.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*

If enforced, the ordinance would significantly reduce the amount of developable space on each site. The irregular lot configurations are the result of the Ray Ellison Blvd improvements and the overall site's measurements. Conforming to the required setback would result in undevelopable lots and significantly smaller homes.

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 requested setbacks will still promote safe development patterns for the City of San Antonio. Both requests provide access to quality light and air, and provide room for adequate fire separation.

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 10 foot variance is highly unlikely to injure adjacent property owners as Lots 28-31 share a rear property line with the public right-of-way and are not directly abutting residential properties. The five foot variance is also unlikely to injure the adjacent property owner as the requested 15 foot setback provides adequate room for maintenance without trespass and will not create any health or safety hazards for 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 site was created by the City's Low Impact Development improvements, which included land dedication from the subject properties. The unique circumstance present on Lot 3 is the result of the overall property's boundaries, resulting in the non-traditional shaped lot." The motion was seconded by Mr. Britton.

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

NAYS: None

VARIANCE IS GRANTED.

Case Number: A-17-125

Applicant: Kristin Hefty

Owner: Kristin Hefty

Council District: 2

Location: 319 Parland Place

Legal Description: Lot 21, NCB 6137

Zoning: "R-4 NCD-6" Residential Single-Family Mahncke Park

Neighborhood Conservation District
Case Manager: Shepard Beamon, Senior Planner

Request

A request for a three (3) foot variance from the NCD-6 requirement regarding the median front setback of 27 feet, as described in Section 35-335, to allow a porch addition to be no more than three feet **in the setback past the 5ft median setback allowance of 22 feet.**

Shepard Beamon: Senior Planner presented the background information and staff's recommendation. He indicated 19 notices were mailed, 2 returned in favor, 0 returned in opposition, and no response from the Mahnke Park Neighborhood Association.

Kristin Hefty: applicant stated she would like variance to create more room for her family to enjoy her front porch.

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-17-125 closed.

MOTION

A motion was made by **Mr. Rodriguez**. "Regarding Appeal No. A-17-125, a request for a three foot variance from the Mahnke Park Neighborhood Conservation District median setback requirement to allow a front porch three feet in the setback allowance, being Lot 21, NCB 6137, located at 319 Parland Place, applicant being Kristin Hefty.

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 requested front setback variance of three feet would allow the expansion of a covered porch, which would satisfy all other NCD-6 requirements for a porch including minimum width and depth, thus the requested front setback variance is not contrary to public interest. Further, the request is not a safety hazard to the general public or neighboring property owners, as it will not interfere with the Clear Vision requirements.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*

Literal enforcement in this case, would result in an unnecessary hardship, as it would limit the amount of outdoor covered space to be enjoyed by the family.

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 the intent of the code rather than the strict letter of the code. Regarding the requested front setback variance, the spirit of the*

ordinance will be observed by allowing the addition of the porch as it will exceed the City required minimum 10 foot front setback.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the “R-4 NCD-6” Residential Single-Family Mahncke Park Neighborhood Conservation District.*

5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*

The requested three foot variance will allow the expansion of a front porch, an essential feature of the conservation district, therefore contributing to the character of the district. Further, the addition will not significantly alter the appearance of the district as all homes on the block have front porches. The request does not set a negative precedent against the established context of the neighborhood or the median 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 plight of the owner is not merely financial in nature. They are seeking approval of the requested variance which will make the home modifications consistent with patterns in the neighborhood.” The Motion was seconded by Mr. Martinez.

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

NAYS: None

THE VARIANCE IS GRANTED

The Board of Adjustment convened for a 10 minute break at 2:00pm and reconvened at 2:10pm.

Case Number: A-17-120

Applicant: Jarred Corbell

Owner: Bexar Bartlett, LLC

Council District: 2

Location: 511 Brackenridge Avenue

Legal Description: Lots 11-20, and 31-40, Block 8, NCB 1070

Zoning: “MF-33 NCD-6 AHOD” Multi-Family Mahncke Park

Neighborhood Conservation Airport Hazard Overlay District

Case Manager: Margaret Pahl, AICP, Senior Planner

Request

A request for variances from the Mahncke Park Neighborhood Conservation District standards for the following: 1) a 5 foot variance from the 20 foot rear setback; 2) a variance from the provision that limit multifamily building massing from exceeding 50 feet and 80 feet in width; 3) a variance from the minimum spacing between buildings to allow buildings as close as 11 feet; and 4) a variance from the provision that requires parking to be located behind the front façade, each as described in UDC 35-335.

Margaret Pahl: Senior Planner presented the background information and staff's recommendation of the variances. She indicated 10 notices were mailed, 0 returned in favor, 0 returned in opposition, and no response from the Mahnke Park Neighborhood Association.

Jarred Corbell: applicant described his project in detail, answered all questions and asked for the Boards approval.

Camis Milam: Secretary of the Mahnke Park Neighborhood Association spoke in opposition

Isabel Garcia: member of the Mahnke Land Use Committee 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-17-120 closed.

A motion was made by **Mr. Martinez**. "Regarding Appeal No., A-17-120, a request **1) a 5 foot variance from the 20 foot rear setback, subject property being Lots 11-20, 31-40, Block 8, NCB 1070, situated at 511 Brackenridge Avenue, applicant being Jarred Corbell.**

I move that the Board of Adjustment grant the applicant's request for the variance to the subject property 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 proposed project is located in an isolated corner of the neighborhood and the variances will allow the addition of a new multi-family project and different housing choices.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*

Literal enforcement would require that the owner redesign the project into a more traditional multi-family project, and likely result in less cohesive open space, an unnecessary hardship.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

The intent of the NCD provisions was to protect the integrity of the single-family characteristics present in the heart of the neighborhood. This portion of the neighborhood has been recently transformed, largely due to the zoning and the dilapidated condition of the building stock. Therefore, the requested variance will observe the spirit of the Code.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in in the “MF-33 NCD-6 AHOD” Multi-Family Mahncke Park 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.*
The applicant is requesting variances to allow the construction of dwelling units on a site that is bordered on three sides by public streets and adjacent to Fort Sam Houston. The variances will not injure adjacent properties and will likely enhance the character of the corner.
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 due to the size of the property assembled for the project, the location of heritage trees and the selected design to create a townhouse streetscape along the public streets. The density proposed is far less than entitled, preserving a 15,000 square foot park in the center of the project.” The motion was seconded by Mr. Teel.

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

NAYS: None

VARIANCE IS GRANTED

A motion was made by **Mr. Kuderer**. “Regarding Appeal No., A-17-120, **4)** a request for a variance from the provision that requires parking to be located behind the front façade subject property being Lots 11-20, 31-40, Block 8, NCB 1070, situated at 511 Brackenridge Avenue, applicant being Jarred Corbell.

I move that the Board of Adjustment grant the applicant’s request for the variance to the subject property 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 based on the staff recommendation and findings of fact from motion number 1 read into the record by **Mr. Martinez**.” The motion was seconded by **Mr. Martinez**.

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

NAYS: None

VARIANCE IS GRANTED

A Motion was made **Mr. Teel**, “Regarding Appeal No., A-17-120, a request, **2)** a variance from the provision that limits 4-unit and 5-unit multi-family buildings from exceeding 50 feet and 80

feet in width. Subject property being Lots 11-20, 31-40, Block 8, NCB 1070, situated at 511 Brackenridge Avenue, applicant being Jarred Corbell.

I move that the Board of Adjustment grant the applicant's request for the variance to the subject property 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 **based on the staff recommendation and findings of fact from motion number 1 read into the record by Mr. Martinez.**" The motion was seconded by **Mr. Martinez.**

AYES: Teel, Martinez, Kuderer, Rodriguez, Britton, Finlay, Neff, Quijano,

NAYS: Cruz, Ojeda, Rogers

VARIANCE FAILED

A Motion was made **Mr. Teel**, Regarding Appeal No., A-17-120, a request **3) a variance from the minimum spacing between buildings to allow buildings as close as 11 feet.** Subject property being Lots 11-20, 31-40, Block 8, NCB 1070, situated at 511 Brackenridge Avenue, applicant being Jarred Corbell.

I move that the Board of Adjustment grant the applicant's request for the variance to the subject property 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 **based on the findings of fact from motion number 1 read into the record by Mr. Martinez.**" The motion was seconded by **Mr. Martinez.**

AYES: Teel, Martinez, Kuderer, Rodriguez, Britton, Finlay, Neff,

NAYS: Cruz, Ojeda, Quijano, Rogers

VARIANCE FAILED

Case Number: A-17-119

Applicant: David F. Bogle

Owner: Rachel Cywinski

Council District: 3

Location: 2158 Steves Avenue

Legal Description: Lot 15 & West 5 ft. of 16, Block 3, NCB 6869

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

Case Manager: Shepard Beamon, Senior Planner

Request

A request for 1) a two (2) foot variance from the five (5) foot side setback to allow an accessory dwelling three (3) feet from side property line; and 2) a 240 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), to allow 750 square foot accessory dwelling.

Shepard Beamon: Senior Planner presented the background information and staff's recommendation. He indicated 32 notices were mailed, 0 returned in favor, 0 returned in opposition, and no neighborhood association.

Rachel Cywinski: applicant explained she needs the accessory structure renovated to live in while her house gets renovated.

Teresa Rodriguez: 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-17-119 closed.

A motion was made by **Ms. Ojeda**. "Regarding Appeal No. A-17-119, a request for 1) a two foot variance from the five foot side setback to allow an accessory dwelling three feet from side property line; and 2) a 240 square foot variance from provision that an accessory dwelling unit shall not exceed 40% of the building footprint of the principal residence to allow a 750 square foot accessory dwelling, subject property being Lot 15 & the West 5 ft. of 16, Block 3, NCB 6869, situated at 2158 Steves Avenue, applicant being David F. Bogle.

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 variances are not contrary to the public interest as the structure provides room for maintenance, will not create water runoff, and will not injure the rights of the adjacent property. Further, the proposed dwelling will not exceed the maximum 800 square foot accessory dwelling building footprint.

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 over 70 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 and adaptively reuse the structure and create a safe, habitable space. The requested ADDU would still provide light, air, and access for maintenance.

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.

In older neighborhoods, such as this, it is common for accessory structures to be located within the side and rear setbacks established by the current 2001 UDC. The proposed unit will not be visible from the public right-of-way, and will not detract from the character of the district. Within the time span the original garage has been in place, there has been no observed harm done to adjacent properties, and it is unlikely the request will injure the adjacent property with the proposed expansion.

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. As there is an existing cement slab used for the garage and uniquely sloped topography in the rear yard, it is more feasible to build on the existing building pad than elsewhere in the rear yard. The Motion was seconded by Mr. Martinez.

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

NAYS: None

THE VARIANCE IS GRANTED

Case Number: A-17-116

Applicant: James & Sheryl Robisheaux

Owner: James & Sheryl Robisheaux

Council District: 8

Location: 6718 Spring Hurst

Legal Description: Lot 20, Block 6, NCB 15917

Zoning: "R-6" Residential Single-Family District

Case Manager: Oscar Aguilar, 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. He indicated 33 notices were mailed, 1 returned in favor, 0 returned in opposition, and no neighborhood association.

Sheryl Robisheaux: applicant stated she wants to comply with all rules and regulations and that is why she is requesting the variance for completion of the construction 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-17-116 closed.

A motion was made by **Mr. Finlay**. “Regarding Appeal No., A-17-116, 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 20, Block 6, NCB 15917, situated at 6718 Spring Hurst, applicant being James & Sheryl Robisheaux.

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 will meet 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 is not a 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 represents the intent of the requirement. The City zoning setback is 10 feet to provide open space and prevent overcrowding of front yards. The proposed carport meets this spirit.
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” Residential Single-Family 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. 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 setbacks. There are similar carports within the subdivision. Therefore, the proposed carport will not alter the character of the neighborhood. Since the proposed carport will meet the City’s established standard for setbacks, the proposed carport will not injure neighboring 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 City of San Antonio has an established 10 foot front setback, applied in all residential districts, and the proposed carport meets this established setback. Therefore, the enforcement of a 30 foot front setback would not make the proposed carport feasible causing a hardship for the owner of the property.” The motion was seconded by Mr. Martinez.

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

NAYS: None

THE VARIANCE IS GRANTED

Case Number: A-17-109

Applicant: Walter Perez

Owner: Walter Perez

Council District: 10

Location: 14415 Boxer Bay

Legal Description: Lot 85, Block 1, NCB 16587

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

Case Manager: Oscar Aguilar, Planner

Request

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

Oscar Aguilera: Planner presented the background information and staff's recommendation. He indicated 30 notices were mailed, 0 returned in favor, 0 returned in opposition, and no neighborhood association.

Walter Perez: applicant, requested interpretation services, stated he has multiple vehicles and was a victim of a hit and run. Also the neighbors complained of him parking on the street. In addition he submitted a letter of approval from his neighbor.

A motion was made by **Ms. Cruz**. “Regarding Appeal No., A-17-109, a request for a 10 foot variance from the 20 foot platted side setback to allow a carport 10 feet from the side property line, the subject property being Lot 85, Block 1, NCB 16587, situated at 14415 Boxer Bay, applicant being Walter Perez.

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 five feet provides this streetscape protection in other areas. The carport is currently placed close to the side property line. A 10 foot side setback would lessen the obstruction for pedestrians and vehicles.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*

There is no hardship that results from the enforcement of the ordinance. The owner has an existing driveway in the front of the home and a two-car garage. Similar to the adjacent property, the applicant could locate the carport on the property, or at minimum, provide a 10 foot side 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 represents the intent of the requirement. The City zoning setback is five feet to provide adequate clearance and separation of properties, however, the current carport's location does not meet this spirit.

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" Residential Single-Family District.

5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*

A 10 foot variance from the 20 foot platted setback for a 10 foot side setback would be in better harmony with the district, as the minimum side setback established for the district is either 20 or 10 feet. The applicant has space to place a portion of the carport within the rear backyard of his property without having to damage any trees or alter the dwelling's structure. In addition, the applicant has a two car garage. The alternate recommendation of a 10 foot setback will not interfere with clear vision for the neighbor's 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.*

The City of San Antonio has established a five feet side setback that is applied in all residential districts. However, the side setbacks for this neighborhood subdivision are 10 to 20 feet. Therefore, the alternative recommendation of a 10 feet side setback will keep the side setback consistent with the neighborhood. Staff could not identify any property related hardship that warrants approval of the requested variance.

The motion was seconded by Mr. Martinez.

AYES: Finlay, Teel, Rodriguez, Cruz, Kuderer, Neff, Finlay, Ojeda

NAYS: Britton, Martinez, Quijano

VARIANCE FAILED

[REDACTED]

The June 5, 2017 Board of Adjustment Minutes were approved.

[REDACTED]

Director's Report: none

[REDACTED]

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

[REDACTED]

APPROVED BY: _____ DATE: _____ Chairman

OR _____ DATE: _____ Vice-Chair

ATTESTED BY: _____ DATE: _____ Executive Secretary