

**BOARD OF ADJUSTMENT  
OFFICIAL MINUTES  
August 21, 2017**

**Members Present:**

Mary Rogers  
Frank Quijano  
Alan Neff  
George Britton  
Maria Cruz  
Jesse Zuniga  
Seth Teel  
Henry Rodriguez  
Roger Martinez  
Richard Acosta

**Staff:**

Catherine Hernandez, Planning Manager  
Logan Sparrow, Principal Planner  
Shepard Beamon, Senior Planner  
Oscar Aguilera, Planner  
Ted Murphree, City Attorney

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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.

Melisa Riley, World Wide Languages Translator, present.

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**Postponed: CASE NO. A-17-152**

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**CASE NO. A-17-149**

Applicant – Francis Cisneros  
Lot 14, Block 31, NCB 11757  
507 Creath Place  
Zoning: “R-4 AHOD” Residential Single-Family Airport Hazard Overlay District

The applicant is requesting for a special exception to allow a one operator beauty/barber shop within a single-family home, as described in Section 35-399.01.

Oscar Aguilera, Planner, presented the background information and staff’s recommendation of the special exception. He indicated 27 notices were mailed, 2 returned in favor, and 0 returned in opposition.

Francis Cisneros, applicant, stated the request is for the renewal for a one (1) operator beauty shop, open Tuesday-Saturday 9am-4pm.

**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-17-149 closed.

**MOTION**

A motion was made by **Mr. Rodriguez**. "Regarding Appeal No A-17-149, a request for special exception to allow a four-year renewal for a one-operator beauty shop, subject property being Lot 14, Block 31, NCB 11757, situated at 507 Creath Place, applicant being Frances Cisneros.

"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:

*A. The special exception will be in harmony with the spirit and purpose of the chapter.*

**The purpose of the special exception is to ensure that the operation of a one-operator beauty/barber shop does not negatively impact the character of the community. The applicant has fulfilled all requirements for a one-operator shop as established in the Unified Development Code. As such, staff finds that the special exception will be in harmony with the purpose of the chapter.**

*B. The public welfare and convenience will be substantially served.*

**The public welfare and convenience will be served as it will provide a valuable service to the residents of the neighborhood.**

*C. The neighboring property will not be substantially injured by such proposed use.*

**The subject property will be primarily used as a single family residence. The beauty/barber shop will occupy only a small portion of the home, as required by the UDC. A neighboring property owner should not have any indication that a portion of the home is being used for this purpose.**

*D. The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought.*

**The requested special exception is not likely to negatively impact adjacent property owners as the home is in character with those around it. There is nothing visible from the street that would indicate the presence of a beauty/barber shop. There is also a large driveway capable of providing any necessary parking for the proposed use.**



*E. The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district.*

**The primary use of the dwelling remains a single-family home. The granting of this special exception will not weaken the purpose of the residential zoning district. The hours of the operation will remain Tuesday – Saturday 9am-4pm.”** The motion was seconded by Mr. Neff.

**AYES: Quijano, Neff, Britton, Cruz, Zuniga, Teel, Acosta, Rodriguez, Martinez, Rogers**

**NAYS: None**

**THE SPECIAL EXCEPTION IS GRANTED.**

#### **CASE NO. A-17-145**

Applicant – Arnolando Uribe

Lot 16, Block 1, NCB 12179

4439 Walzem Road

Zoning: “C-3 MC-3 AHOD” General Commercial Austin Highway / Harry Wurzbach

Metropolitan Corridor Overlay Airport Hazard Overlay District”

The applicant is requesting for an 85 square foot variance from the maximum 65 square foot digital sign area, as described in the Austin Highway / Harry Wurzbach Metropolitan Corridor Section F table F.1, to allow a 150 square foot digital sign.

Oscar Aguilera, Planner, presented the background information and staff’s recommendation of the variance. He indicated 18 notices were mailed, 0 returned in favor, and 0 returned in opposition.

Arnold Uribe, applicant, stated the variance request is to reduce the signage to one (1) digital sign. The applicant also presented a site plan of the proposed sign.

Arturo Elizondo, CoSA Sign Inspector, answered the Board’s questions regarding digital signage requirements.

**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-17-145 closed.

**MOTION**

A motion was made by **Mr. Martinez**. Regarding Appeal No., A-17-145, a request for an 85 square foot variance from the maximum 65 square foot digital sign area to allow a 150 square foot digital sign, subject property being Lot 16, Block 1, NCB 12179, situated at 4439 Walzem Road, applicant being Arnoldo Uribe.

“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 applicant is proposing to remove all existing signs and replace them with a single 150 square foot sign in order to digitally advertise all of the tenants. Since the applicant is updating an older sign package with a newer and better looking one, staff finds that the request is not contrary to the public interest.**
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*  
**The existing signs look cluttered and businesses do not get advertised appropriately. This makes the property unappealing to prospective tenants and the public.**
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*  
**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*  
**in the “C-3 MC-3 AHOD” General Commercial Austin Highway/Harry Wurzbach Metropolitan Corridor 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 digital sign will improve the gateway corridor by removing the oversized signage and replacing it with a 150 square foot sign. This will not harm the character of the district and surrounding properties will benefit.**
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 property owner's plight is that the property does not have any buildings with street frontage, existing signs are too large and cluttered, and therefore the tenants don't get the required visibility that their businesses need."** The motion was seconded by **Mr. Rodriguez**.

**AYES: Quijano, Neff, Britton, Cruz, Zuniga, Teel, Acosta, Rodriguez, Martinez, Rogers**

**NAYS: None**

**THE VARIANCE IS GRANTED.**

#### **CASE NO. A-17-148**

Applicant: Robert Grant

Lot 2, NCB 15865

12019 Perrin Beitel Road

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

District

The applicant is requesting for a 10 foot variance from the "Type B" 15 foot bufferyard requirement to allow a five (5) foot bufferyard, as described in Section 35-510.

Shepard Beamon, Senior Planner, presented background, and staff's recommendation of the variance request. He indicated 7 notices were mailed, 1 returned in favor, and 0 returned in opposition.

Robert Grant, applicant, requested the variance to develop the area aesthetically and economically while meeting all the requirements set by the city, as the property is a part of the Northeast Corridor Revitalization Initiative.

**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-17-148 closed.

#### **MOTION**

A motion was made by **Mr. Neff**. 'Regarding Appeal No. A-17-148, a request for a 10 foot variance from the "Type B" 15 foot bufferyard requirement to allow a five foot bufferyard, subject property being Lot 2, NCB 15865, situated at 12019 Perrin Beitel Road, applicant being Robert Grant.

"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 bufferyard requirements, which provide landscaped separation to screen from view certain land uses that may create visual clutter and distraction. The requested five foot landscape buffer provides the adequate screening and opacity between the proposed commercial development and the major arterial.**

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

**Literal enforcement of the ordinance would result in an unnecessary hardship as the site is compact and difficult to develop. Providing the full 15 foot bufferyard will significantly reduce developable space on the property.**

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

**The five foot bufferyard is sufficient in that it will provide landscaping along the corridor, improving the appearance, as there is currently no landscaping on site.**

4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the "C-3 AHOD" General 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.*

**As there is only one abutting property, the requested reduction of the bufferyard is highly unlikely to injure the rights of any adjacent property owner. Further, as there is currently not landscaping on site, the five foot landscape buffer will serve as an aesthetic improvement not only to the site, but also to the corridor.**

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 the narrow, triangular shape of the property, combined with the multiple easements and dedications. The required 15 foot bufferyard does not allow any portion of a building or parking within, significantly limiting the site layout." The motion was seconded by Mr. Teel.**

**AYES: Quijano, Neff, Britton, Cruz, Zuniga, Teel, Acosta, Rodriguez, Martinez, Rogers**

**NAYS: None**

**THE VARIANCE IS GRANTED.**



**CASE NO. A-17-153**

Applicant: Martin Gutierrez

Owner: Just Bleurayne, LLC

Lot 1, Block 1, NCB 4864

26587 US Highway 281 North

Zoning: "C-3 GC-3 MLOD-1 ERZD" General Commercial US 281 North Gateway Corridor  
Camp Bullis Military Lighting Overlay Edwards Recharge Zone District

The applicant is requesting for 1) a 55.5 foot variance from the "GC-3" 60 foot front setback, as described in the US 281 North Gateway Corridor District Plan, and 2) a 15 foot variance from the "GC-3" 20 foot side setback, as described in the US 281 North Gateway Corridor District Plan, and 3) a request for a 14.5 foot variance from the 15 foot "Type B" bufferyard along the front property line, as described in Section 35-510, to allow a commercial building.

Shepard Beamon, Senior Planner, presented background, and staff's recommendation of the variance requests. He indicated 6 notices were mailed, 0 returned in favor, and 0 returned in opposition.

Martin Gutierrez, applicant, stated the variance is needed to continue to have the business open and to employ current employees, due to TX Dot purchasing a portion of the property where the current business is located.

Charles Gates, architect representative, stated the plans are in the preliminary stage and is working to utilize the total space and stay in compliance.

**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 17-153 closed.

**MOTION**

A motion was made by **Mr. Martinez**. "Regarding Appeal No. A-17-153, a request for 1) a 55.5 foot variance from the "GC-3" 60 foot front setback, 2) a 15 foot variance from the "GC-3" 20 foot side setback, and 3) a request for a 14.5 foot variance from the 15 foot "Type B" bufferyard along the front property line, subject property being Lot 1, Block 1, NCB 4864, situated at 26587 US Highway 281 North, applicant being Martin Gutierrez.

"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 proposed development will be a condensed operation of an existing business, which previously, had no negative impact on the surrounding area. The reduction of the required setbacks and bufferyard will not harm the well-being of the general public.**

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

**Literal enforcement of the ordinance would result in an unnecessary hardship as the site is compact and difficult to develop. The enforcement of the required setback and bufferyard would result in additional loss of bays for auto repair and would ultimately result in the cessation of the business.**

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

**Meeting the requirements would result in the in the demise of the longevity of the business. The intent of the setbacks and bufferyard were intended for larger lots along Highway 281 and should not be considered applicable to lots as small as the subject property. The request will not distract motorists and will not increase visual clutter along the 281 corridor.**

4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the "C-3 GC-3 MLOD-1 ERZD" General Commercial US 281 North Gateway Corridor Camp Bullis Military Lighting Overlay Edwards Recharge Zone District.*

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

**As there are only commercial properties along US Highway 281, the requested variances are unlikely to injure the rights of the adjacent property owners. Further, the proposed development is unlikely to create a distraction to motorists along the major arterial.**

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 the reduction of the property due to TxDOT acquiring a significant amount of land for future road expansion. The business is losing a significant amount of usable space and with the setbacks and bufferyard imposing further restrictions on the remaining land, there is no feasible way the business can be built and operate. If imposed, the front setback, alone, would prohibit any building being built as the setback is larger than the depth of the lot." The motion was seconded by Mr. Rodriguez.**

**AYES: Quijano, Neff, Britton, Cruz, Zuniga, Teel, Acosta, Rodriguez, Martinez, Rogers**  
**NAYS: None**

**THE VARIANCES ARE GRANTED.**

#### **CASE NO. A-17-155**

Applicant – Leticia Gonzalez  
Lot 1 and 2, Block 28, NCB 1989  
2303 North Zarzamora Street  
Zoning: “C-2 NCD-8 AHOD” Commercial Woodlawn Lake Neighborhood Conservation  
Airport Hazard Overlay District

The applicant is requesting for a 16 foot variance from the 30 foot rear setback, as described in Section 35-310.01, to allow a commercial building addition 14 feet from the rear property line.

Shepard Beamon, Senior Planner, presented the background information, and staff’s recommendation of the variance request. He indicated 25 notices were mailed, 0 returned in favor, 0 returned in opposition, and no response from the West End Hope in Action Neighborhood Association.

Elizabeth Sampayo, representative, stated the variance to allow more storage space and a larger sitting area for the current fruit stand business.

**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-17-155 closed.

#### **MOTION**

A motion was made by **Mr. Teel**. “Regarding Appeal No. A-17-155, a request for a 16 foot variance from the 30 foot rear setback to allow a commercial building addition 14 feet from the rear property line, subject property being Lot 1 and 2, Block 28, NCB 1989, situated at 2303 North Zarzamora Street, applicant being Leticia Gonzalez.

“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 14 foot rear setback provides appropriate room for maintenance for the commercial building without trespass or interference with the adjacent property. Further, the requested addition will satisfy all other required setbacks.**

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

**Although the abutting property is zoned "C-2" Commercial District, the residential use triggers the 30 foot rear setback. The setback creates restrictions on any expansion on the building, while still providing adequate parking.**

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

**In this case, the intent of setback is to provide adequate separation between incompatible uses. A rear setback of 14 feet is adequate separation between the commercial and residential uses.**

4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the "C-2 NCD-8 AHOD" Commercial Woodlawn Lake Neighborhood Conservation Airport Hazard Overlay District.*

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

**As the existing building has been in the same location since 1981 and has done no visible harm to the adjacent residential property, it is unlikely the addition will create any new problems or concerns for the adjacent property. Further, the addition will not significantly alter the appearance of the commercial corridor.**

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.*

**If the building addition were to comply with the 30 foot rear setback, the building would not be able to comfortably accommodate additional seating for customers and needed additional storage." The motion was seconded by Ms. Cruz.**

**AYES: Quijano, Neff, Britton, Cruz, Zuniga, Teel, Acosta, Rodriguez, Martinez, Rogers**

**NAYS: None**

**THE VARIANCE IS GRANTED.**



**The Board of Adjustment recessed for a 10 minute break at 2:37 p.m. and reconvened at 2:52 p.m.**

**CASE NO. A-17-156**

Applicant: Esmeralda Munoz

Owner: Esmeralda and Manuel Munoz

Lot N. 75 ft. of 1A, 1B, 2A, 2B, Block 2, NCB 2448

2324 Guadalupe Street

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

The applicant is requesting for 1) a 16 foot variance from the 30 foot rear setback, as described in Sec. 35-310.01, to allow a commercial building 14 feet from the rear property line and 2) a 5 foot variance to the "Type B" 15 foot bufferyard along the rear property line, as described in section 35-510.

Oscar Aguilera, Planner, presented background information, and staff's recommendation of the variance requests. He indicated 47 notices were mailed, 0 returned in favor, 0 returned in opposition, and no response from the Guadalupe Avenida Neighborhood Association.

Luis Faraklas, representative, stated the variance request is to be able to obtain permits and inspections to get the property in compliance, since the property was bought without knowledge of a permit history.

**The following citizens appeared to speak:**

Olga Morales, spoke with concerns of future project, but stated no other issues after the presented case hearing.

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-17-156 closed.

**MOTION**

A motion was made by **Ms. Cruz**. "Regarding Appeal No. A-16-071, variance application for a special exception to allow for the construction of a fence that is as high as seven feet and nine inches high in the rear yard of the property, subject property description Lot 1, Block 22, NCB 18072, situated at 3402 Meadow Drive, applicant being John M. Marquis.

"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. "The special exception will be in harmony with the spirit and purpose of the chapter" in that **UDC allows fences as tall as seven feet and nine inches as a special exception, authorized under certain circumstances in accordance with specific factors as described in this report. 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" in that **the public welfare and convenience can be served through the added protection of a rear yard fence, allowing the owner to protect his home and improve the quiet enjoyment of their rear yard**
3. "The neighboring property will not be substantially injured by such proposed use" in that **the rear fence will create enhanced privacy 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" in that: **rear fencing is not out of character in this neighborhood and the subject property is located along a highly trafficked street, not another property. Thus, granting the exception will not alter 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" in that: **the purpose of the single-family residential zoning districts is to encourage patterns of residential development that provide housing choices and a sense of community. Therefore, the requested special exception will not weaken the general purpose of the district."** The motion was seconded by **Mr. Quijano.**

**Mr. Martinez made an Amendment to the motion to follow the site plan where the height maximum would only be along the street. Mr. Rodriguez seconded the motion.**

**AYES: Quijano, Neff, Britton, Cruz, Zuniga, Teel, Acosta, Rodriguez, Martinez, Rogers**

**NAYS: None**

**THE VARIANCES ARE GRANTED.**

**CASE NO. A-17-169**

Applicant: Leonard Rodriguez  
Lots 14, 27, and 28, Block 3522, NCB 6211  
203 North New Braunfels Avenue  
“C-3 AHOD” General Commercial Airport Hazard Overlay District

The applicant is requesting for a 10 foot variance from the “Type B” 15 foot bufferyard requirement to allow a five (5) foot bufferyard, as described in Section 35-510.

Shepard Beamon, Senior Planner, presented background information, and staff’s recommendation of the variance request. He indicated 23 notices were mailed, 0 returned in favor, 0 returned in opposition, and no response from the Jefferson Heights Neighborhood Association.

Leonard Rodriguez, applicant, stated the property was given to him from his family, and would like to remodel and reconstruct the structures on the property.

**The following citizens appeared to speak:**

Patti Zaiontz, VP SACS, confirmed one of the structures on the property is historic.

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-17-169 closed.

**MOTION**

A motion was made by **Mr. Rodriguez**. “Regarding Appeal No. A-17-169, a request for a 10 foot variance from the “Type B” 15 foot bufferyard requirement to allow a five foot bufferyard, subject property being Lots 14, 27, and 28, Block 3522, NCB 6211, situated at 203 North New Braunfels Avenue, applicant being Leonard 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 five foot bufferyard is not contrary to public interest as it does not negatively impact any surrounding properties or the general public. As the owner is not asking for the complete elimination of the bufferyard, the request is not contrary to the public interest.**

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

**As one of the existing buildings is already within the front 15 feet of the property, there is no feasible way to meet the full 15 foot bufferyard. Also, in order to provide adequate parking and circulation on the site, the reduction of the bufferyard is necessary.**

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

**In this case, the proposed bufferyard will sufficiently screen the street and traffic from any visual clutter and will improve the existing streetscape, as there is currently no landscape provided.**

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 variances will not authorize the operation of a use on the subject property other than those specifically permitted in the "C-3 AHOD" General 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.*

**As there is currently no landscaping on the site, the introduction of a five foot buffer would only enhance the overall appearance of the site, streetscape, and neighborhood.**

6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.*

**As the existing building already encroaches and there are large mature trees on site, accommodating to the existing site constraints and the addition of the 15 foot bufferyard only further restricts the amount of required parking and circulation for the businesses." Mr. Neff seconded the motion.**

**AYES: Quijano, Neff, Britton, Cruz, Zuniga, Teel, Acosta, Rodriguez, Martinez, Rogers**

**NAYS: None**

**THE VARIANCE IS GRANTED.**

**CASE NO. A-17-154**

Applicant: Victor Trejo  
Lot 22, Block 4, NCB 11216  
218 Doolittle Street  
Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District

The applicant is requesting for 1) a variance to allow metal as a fencing material in the rear and side yard as described in Section 35-514 (6)(d) and 2) a variance from the 50 percent maximum front yard impervious cover to allow 80 percent impervious cover, as described in Table 35-515-1.

Oscar Aguilera, Planner, presented background information, and staff's recommendation of the variance requests. He indicated 37 notices were mailed, 0 returned in favor, and 0 returned in opposition.

Victor Trejo, representative, requested the variances for a metal fence on the side/rear of the property. He stated the metal lasts longer than wood, and provides total protection for his family.

**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-17-154 closed.

**MOTION**

A motion was made by **Mr. Teel**. "Regarding Appeal No. A-17-154, a request for 1) a variance to allow metal as a fencing material in the rear and side yard, subject property being Lot 22, Block 4, NCB 11216, situated at 218 Doolittle Street, applicant being Victor Trejo.

"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 corrugated metal fence has a minimal view from the street, it was built with a guard, and the design and color of the fence matches the home. The variance requests would not be contrary to the public interest.**

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

**The applicant stated that his hardship is that he was the victim of vandalism and theft. Therefore, enforcing the code would result in unnecessary hardships since the fence protects his property and the two driveway approaches will keep the owner safe when entering and leaving the property.**

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 design of the fence has a minimal view from the street, and the design and color of the fence matches the home.**

4. *The variance will not authorize the operation of a use other than those uses specifically authorized*

**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 fence does not present a public safety issue and does not have a negative impact on the welfare of the public since the fence meets the height requirement of the code. Therefore, the requested variance will not injure the neighbors and the request will be in harmony with the neighborhood.**

6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.*

**The plight of the owner is that he was the victim of vandalism and theft and would like to protect his property by installing a fence. The request helps to mitigate these issues." The motion was seconded by Mr. Neff.**

**AYES: Neff, Britton, Cruz, Zuniga, Teel, Acosta, Rodriguez, Rogers**

**NAYS: Quijano, Martinez**

**THE VARIANCE FAILED**



Regarding Appeal No. A-17-154, a request 2) a variance from the 50 percent maximum front yard impervious cover to allow 80 percent impervious cover, subject property being Lot 22, Block 4, NCB 11216, situated at 218 Doolittle Street, applicant being Victor Trejo.

"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 impervious coverage limitation preserves storm water management by reducing runoff and increasing storm water travel times. The property has a southern drainage slope, away from the street, that allows the water to drain into the open green area located within the property. The variance requests would not be contrary to the public interest.**
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*  
**The applicant stated that his hardship is it is dangerous exiting and entering his property due to excessive traffic on the local street. Therefore, enforcing the code would result in unnecessary hardships and the two driveway approaches will keep the owner safe when entering and leaving the property.**
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 paved area is designed to prevent an excessive amount of water runoff from draining into the street.**
4. *The variance will not authorize the operation of a use other than those uses specifically authorized*  
**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 impervious coverage directs runoff on the subject property only and does not impact surrounding properties. Therefore, the requested variance will not injure the neighbors and the request will be in harmony with the neighborhood.**
6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.*  
**The plight of the owner is that there is excessive traffic that poses a danger for his family to safely access and leave his property. The request helps to mitigate these issues.**

**AYES: Neff, Teel, Acosta, Rodriguez, Rogers**  
**NAYS: Quijano, Britton, Cruz, Zuniga, Martinez**

**THE VARIANCE FAILED**

**CASE NO. A-17-150**

Applicant: Jose Montalvon  
Lot 15, Block 11, NCB 8961  
3140 West Martin Street  
Zoning: "MF-33 AHOD" Multi-Family Airport Hazard Overlay District

The applicant is requesting for 1) 18.5 foot variance from the 20 foot rear setback, as described in section 35-310, to allow a carport and home addition 1.5 feet from the rear property line and 2) 4 foot variance from the 5 foot side setback requirement, as described in Table 35-310. Oscar Aguilera, Planner, presented background information, and staff's recommendation of the variance requests. He indicated 42 notices were mailed, 1 returned in favor, and 0 returned in opposition.

Jose Montalvon, applicant, stated the variance requests would protect his property from theft by modify his porch area, creating a carport, and creating a storage unit for his tools.

Melisa Riley, World Wide Languages, translated for the applicant.

**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-17-150 closed.

**MOTION**

A motion was made by **Mr. Martinez**. "Regarding Appeal No. A-17-150, a request for 1) 18.5 foot variance from the 20 foot rear setback to allow a carport and home addition 1.5 feet from the rear property line and 2) 4 foot variance from the 5 foot side setback requirement subject property being Lot 1, Block 9, NCB 2244, situated at 3140 West Martin Street, applicant being Jose Montalvon.

"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 carport is three feet from the rear property line with a one and a half foot overhang and one foot from the side property line, providing room for maintenance and therefore is not 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 rear setback would prohibit the carport and addition entirely. The 3 foot rear setback with a 1.5 foot overhang and one foot side setback would allow for room to maintain the structure and the setbacks will not be contrary to the public interest.**

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

**The addition provides the owner with adequate protection of personal property. Further the addition does not negatively impact the district.**

4. *The variance will not authorize the operation of a use other than those uses specifically authorized*

**The variance will not authorize the operation of a use other than those uses specifically authorized in the "MF-33 AHOD" Multi-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 does not injure the adjacent properties as there is room for maintenance, and the carport will be in character with the surrounding properties.**

6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, 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 the property lot is only 3,000 square feet and the home was originally built in 1939, which is smaller than many lots in the district. The carport and addition were built for added protection for inclement weather, safety and to protect the owner's property. Ms. Cruz seconded the motion.**

**AYES: Quijano, Neff, Britton, Cruz, Zuniga, Teel, Acosta, Rodriguez, Martinez, Rogers**

**NAYS: None**

**THE VARIANCES ARE GRANTED.**

**Ms. Rogers made a motion to approve the August 7, 2017 minutes with all members voting in the affirmative.**

Directors Report:

There being no further discussion, meeting adjourned at 4:45 pm.

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

DATE: 9-18-17

ATTESTED BY: M. Murphy DATE: Sept 22, 17  
Executive Secretary