

**BOARD OF ADJUSTMENT  
OFFICIAL MINUTES  
September 18, 2017**

**Members Present:**

Mary Rogers  
Frank Quijano  
Jeff Finlay  
George Britton  
Maria Cruz  
Jesse Zuniga  
Seth Teel  
Henry Rodriguez  
Roger Martinez  
Richard Acosta  
Denise Ojeda

**Staff:**

Catherine Hernandez, Planning Manager  
Paul Wendland, City Attorney  
Shepard Beamon, Senior Planner  
Oscar Aguilera, 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.

Melisa Riley, World Wide Languages Translator, present.

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**CASE NO. A-17-161 was withdrawn**

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**Case Number:       A-17-162**

Applicant:       Mary Alice Vasquez and Raul L. Vasquez  
Owner:       Mary Alice Vasquez and Raul L. Vasquez  
Council District:   3  
Location:       1706 Clark Avenue  
Legal Description:   Lot 20, 21, and 22, Block 3, NCB 3178  
Zoning:        "R-4 AHOD" Residential Single-Family Airport Hazard Overlay  
                  District  
Case Manager:     Oscar Aguilera, Planner

**Request**

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

Oscar Aguilera, Planner, presented the background information and staff's recommendation of the special exception. He indicated 35 notices were mailed, 1 returned in favor, and 0 returned in opposition. No Response from the Highland Park Neighborhood Association.

Mary Alice Vasquez, applicant, stated the request is for the renewal for a one (1) operator beauty shop, open Tuesday-Saturday 9am-5pm.

**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-17-162 closed.

**MOTION**

A motion was made by **Ms. Cruz**. "Regarding Appeal No. A-17-162, a request for special exception to allow a two-year permit for a one-operator beauty shop, subject property being Lot 20, 21, and 22, Block 3, NCB 3178, situated at 1706 Clark Avenue, applicant being Mary Alice Vasquez and Raul L. Vasquez.

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 spirit of the chapter is represented by minimum requirements to ensure that the operation of a one-operator beauty/barber shop does not negatively impact the character of the community or the quality of life of neighbors. The applicant has fulfilled all requirements for a one-operator shop as established in the Unified Development Code.**

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

**The applicant complies with all the UDC requirements for a one-operator shop. Approving the request for the special exception, with limited hours, will allow the applicant to serve customers in her community and therefore the public welfare will be served. The proposed hours of operation will be limited to Tuesday through Saturday, from 9:00 am to 5:00 pm.**

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

**The requested special exception is not likely to negatively impact adjacent property owners because the home is in character with those around it.**

*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 alter the essential character of the district as the property is still used, primarily, as a single-family residence. From the street, the home is not unlike other homes in the community.**

*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 one-operator barber/beauty shop will have restricted hours, which are established by the Board of Adjustment. The applicant has met all other requirements established by the Unified Development Code.”** The motion was seconded by **Mr. Rodriguez.**

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

**NAYS: None**

**THE SPECIAL EXCEPTION IS GRANTED.**

**Case Number: A-17-159**

Applicant: Ana Luisa Sanchez  
Owner: Ana Luisa Sanchez  
Council District: 7  
Location: 8151 Eckhert Road  
Legal Description: P-33, NCB 17970  
Zoning: “C-1 CD AHOD” Light Commercial Airport Hazard Overlay District with Conditional Use for a Variety Store with Outdoor Display.  
Case Manager: Oscar Aguilera, Planner

**Request**

A request for a special exception, as described in 35-514 (d), to allow a 6 foot wrought iron fence in the front yard.

Oscar Aguilera, Planner, presented the background information and staff’s recommendation of the variance. He indicated 31 notices were mailed, 0 returned in favor, and 0 returned in opposition.

Ana Sanchez, applicant, stated the variance request is due to the crime in the area. She stated she was been robbed 9 times and is concerned about the amount of sexual predators in the area. The size of the fence will give Ms. Sanchez peace of mind.

**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-17-159 closed.

## MOTION

A motion was made by **Mr. Quijano**. "Regarding Appeal No. A-17-159, a request for a special exception to allow a 6 foot wrought iron fence in the front yard, subject property being P-33, NCB 17970, situated at 8151 Eckhert Road, applicant being Ana Luisa Sanchez.

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.*

**Staff finds that the request for a six foot fence is in harmony with the public interest as the fence is intended to protect the subject property, the applicant, and clients.**

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

**Staff finds that allowing the property owner to install a six (6) foot front fence will help to deter acts of trespass in the future and ensure the safety of the applicant and clients.**

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

**Granting the requested special exception will not injured neighbors as the fence will be able to protect the subject property from trespass and ensure the safety of employees and clients.**

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.*

**Six foot fencing in the front would not significantly alter the overall appearance of the district and will provide the required safety for the property owner and clients.**

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

**The purpose of the fencing standards is to protect the health, safety and general welfare of the public. The special exception request is to add security for the owner. Therefore, the requested special exception will not weaken the general purpose of the district."**

The motion was seconded by **Mr. Teel**.

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

**THE SPECIAL EXCEPTION IS GRANTED.**

**Case Number: A-17-166**

Applicant: Pamela Mathy  
Owner: Pamela Mathy  
Council District: 1  
Location: 7 Hyde Park  
Legal Description: Lot 1, Block 3, NCB 18200  
Zoning: "RM-4 PUD AHOD" Residential Mixed Planned Unit Development  
Airport Hazard Overlay District  
Case Manager: Shepard Beamon, Senior Planner

**Request**

A request for a request for a special exception to allow an eight (8) foot wrought iron fence in the rear yard, as described in Section 35-514.

Shepard Beamon, Senior Planner, presented background, and staff's recommendation of the variance request. He indicated 30 notices were mailed, 3 returned in favor, and 0 returned in opposition.

Pamela Mathy, applicant, requested the variance for added security to her home. Many homes in her neighborhood have similar fencing and asked for the Boards approval.

**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-17-166 closed.

**MOTION**

A motion was made by **Mr. Neff**. "Regarding Appeal No. A-17-166, a request for a special exception to allow an 8 foot fence in the rear yard, subject property being Lot 1, Block 3, NCB 18200, situated at 7 Hyde Park, applicant being Pamela Mathy.

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 UDC allows fences as tall as eight (8) feet tall as a special exception, authorized under certain circumstances in accordance with specific factors as described in this report. The requested fencing will provide a greater sense of security for the homeowner as the property is located at the entrance of the community.**

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

**The public welfare will not be harmed as the requested fence will not distract motorists or negatively affect the daily activities of residents within the community.**

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

**The requested fencing will not negatively impact the adjacent property as it does not interfere with visibility when exiting the neighboring driveway.**

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

**As documented by the owner, there are several homes that demonstrate similar fencing in both material and the requested height. The request will not alter the character of the district.**

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

**The purpose of the residential zoning districts is to encourage patterns of residential development that provide a sense of community. The requested special exception will not weaken the general purpose of the district as it highly unlikely to be noticed and does not take away from the character of the district.” The motion was seconded by Mr. Zuniga.**

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

**NAYS: None**

**THE SPECIAL EXCEPTION IS GRANTED.**

**Case Number: A-17-151**

Applicant: Pedro Rodriguez  
Owner: Marcus Raul Elias Saide  
Council District: 9  
Location: 17540 Blanco Road  
Legal Description: Lot 8, Block 2, NCB 18402  
Zoning: “R-6 MLOD-1 AHOD ERZD” Residential Single-Family Camp  
Bullis Military Lighting Overlay Airport Hazard Overlay Edwards  
Recharge Zone District  
Case Manager: Oscar Aguilera, Planner

**Request**

A request for a 280 square foot variance from the 800 square foot maximum allowance for an accessory dwelling, as described in Section 35-371, to allow a 1,080 square foot accessory dwelling.

Oscar Aguilera, Planner, presented background, and staff's recommendation of the variance requests. He indicated 20 notices were mailed, 2 returned in favor, and 1 returned in opposition.

Pedro Rodriguez, applicant, stated the variance is needed to expand his property for his sister to move in and for future guests to stay.

### **Citizens appeared to speak.**

Charles Means, President of the Canyon Creek Estate home owners association 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 17-151 closed.

### **MOTION**

A motion was made by **Ms. Ojeda**. "Regarding Appeal No. A-17-151, a request for a 280 square foot variance from the 800 square foot maximum allowance for an accessory dwelling to allow a 1,080 square foot accessory dwelling, subject property being Lot 8, Block 2, NCB 18402, situated at 17540 Blanco Road, applicant being Pedro 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 protected by a requirement that accessory dwelling structure remain in site to the principal dwelling unit. In this case, since the home being built is very substantial in size with a large yard, bounded by mature trees, the variance to allow the increase in size for the accessory dwelling structure is not contrary to the public interest.**

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

**The additional height and square footage for the accessory dwelling unit is not overwhelming, and allows for adequate air and light in the yard. The accessory dwelling unit is proportional to the main structure, the size of the lot, and the neighboring lots.**

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 accessory dwelling unit is proportional to the size of the home, the size of the lot, and is within the character of the subdivision.**



4. *The variance will not authorize the operation of a use other than those uses specifically authorized*  
**in the "R-6 MLOD-1 AHOD ERZD" Residential Single-Family Camp Bullis Military Lighting Overlay Airport Hazard 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.*  
**The size of the accessory dwelling unit is proportional with the size of the main home, the size of the lot, and the accessory dwelling unit will comply with the one bedroom one bath requirement of the code.**
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 applicant has a large lot with a large home and that is bounded by mature trees. The accessory dwelling unit will be proportional in size with the primary dwelling." The motion was seconded by Mr. Teel.**

**AYES: Ojeda, Teel, Cruz, Acosta, Rodriguez, Rogers**

**NAYS: Zuniga, Finlay, Martinez, Quijano, Britton**

#### **THE VARIANCE FAILED**

**Case Number: A-17-160**

Applicant: Maria G. Sanchez  
Owner: Maria G. Sanchez  
Council District: 5  
Location: 1519 Vera Cruz  
Legal Description: Lot 23, Block 8, NCB 6034  
Zoning: "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District  
Case Manager: Shepard Beamon, Senior Planner

#### **Request**

A request for 1) a 19 foot 11 inch variance from the 20 foot rear setback, as described in Section 35-310.01, to allow a home addition one inch from the rear property line and 2) a four foot variance from the 5 foot side setback, as described in Section 35-310.01, to allow a home addition one (1) foot from the side property line.

Shepard Beamon, Senior Planner, presented the background information, and staff's recommendation of the variance request. He indicated 33 notices were mailed, 0 returned in favor, 0 returned in opposition. No response from the Avenida Guadalupe Association.



Maria G. Sanchez, applicant, requested translation services, stated the variance is needed to accommodate her disabled Veteran son. The applicant stated she does not have the means to modify the structure.

**The following citizens appeared to speak.**

Angelica Solis: 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-17-160 closed.

**MOTION**

A motion was made by **Mr. Martinez**. "Regarding Appeal No. A-17-160, a request for **1) a 19 foot 11 inch variance from the 20 foot rear setback to allow a home addition one inch from the rear property line** subject property being Lot 23, Block 8, NCB 6034, situated at 1519 Vera Cruz, applicant being Maria G. Sanchez.

I move that the Board of Adjustment grant the applicant's request **minus the variance request for the side setback** 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 order to cover the additional area for the bedroom was built for her disabled son, the rear setback variance will be allowed.**

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

**Due to the depth of the lot, meeting the full 20 foot rear setback established by the zoning district creates a hardship that significantly limits any expansion to the home. As the applicant has stated there is need for additional space in the home for more family members, a 20 foot setback would allow for the expansion and would have to comply with fire codes and some modifications will need to be done to the bedroom addition.**

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

**Providing near elimination of the rear setback would satisfy the spirit of the ordinance and provide room for the family to care for their disabled son and expand the home and maintain the property. Further, encroachment into the side setback does significantly increase the risk for fire spread as the structure is on a corner lot.**

4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the "RM-4 AHOD" Residential Mixed 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.*

**Reducing the rear setback to account for the additional bedroom this will allow the property to be better utilized to maintain the safety of her son.**

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 motion was seconded by **Mr. Britton.**

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

**NAYS: Acosta**

**THE VARIANCE IS GRANTED.**

**The Board of Adjustment recessed for a 10 minute break at 3:15 p.m. and reconvened at 3:25 p.m.**

**Case Number: A-17-158**

Applicant: Ernesto Esquivel  
 Owner: Ernesto Esquivel & Yolanda Esquivel  
 Council District: 5  
 Location: 3019 Mars Street  
 Legal Description: Lot 30, Block 3, NCB 13474  
 Zoning: "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District.  
 Case Manager: Oscar Aguilera, Planner

**Request**

A request for a 2.5 foot variance from the 5 foot side setback, as described in Section 35-516 (O), to allow a carport 2.5 from the side property line.

Oscar Aguilera, Planner, presented background information, and staff's recommendation of the variance requests. He indicated 36 notices were mailed, 0 returned in favor, 0 returned in opposition.

Ernesto Esquivel Jr., applicant, stated the variance request is needed for Mrs. Esquivel who is disabled and does not have the means to modify the structure.

**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-17-158 closed.

## MOTION

A motion was made by **Mr. Martinez**. “Regarding Appeal No. A-17-158, a request for a request for a 2.5 foot variance from the 5 foot side setback, as described in Section 35-516 (O), to allow a carport 2.5 from the side property line, subject property being Lot 30, Block 3, NCB 13474, situated at 3019 Mars Street, applicant being Ernesto Esquivel.

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 setback limitations to protect property owners and create a cohesive streetscape. The proposed carport would not be contrary to the public interest since there is enough space to allow for room to maintain the structure and there will be no water runoff.**

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

**Literal enforcement of the side setback of 5 feet would result in complicating the access and prevent the applicant from providing shelter during inclement weather. A 2.5 foot side setback would allow for room to maintain the structure.**

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

**The spirit of the ordinance will be respected in that the carport does not harm any adjacent properties as the carport respects the established front setbacks. Allowing the carport’s width at 2.5 feet will allow space for maintenance.**

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

**in the “R-6 AHOD” Residential Single-Family Airport Hazard Overlay District.**

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

**There are other carports prevalent in the area that provides a similar setback. The structure will not impose any immediate threat of water runoff or fire spread on 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 applicant's need for more shelter is not a condition created by the owner. Accessibility needs required some alleviation of the side setbacks."** The motion was seconded by **Mr. Britton**.

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

**NAYS: None**

**THE VARIANCES ARE GRANTED.**

**Mr. Acosta Recused himself from case A-17-147 at 3:40 p.m.**

**Case Number: A-17-147**

Applicant: Irma G. Tamez  
Owner: Irma G. Tamez  
Council District: 1  
Location: 1510 West Olmos Drive  
Legal Description: Lot 7, Block 47, NCB 7095  
Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District  
Case Manager: Shepard Beamon, Senior Planner

**Request**

A request for 1) a 4.5 foot variance from the 10 foot front setback, as described in Section 35-310.01, to allow a carport 5.5 feet from the front setback; 2) a two foot variance to allow an eave overhang one foot from the side property line, as described in Section 35-310.01; 3) an 11% variance from the limitation of a maximum 50% impervious cover in the front yard, as described in Section 35-515 (d)(1), to allow 61% impervious cover.

Shepard Beamon, Senior Planner, presented background information, and staff's recommendation of the variance request. He indicated 38 notices were mailed, 7 returned in favor, 1 returned in opposition.

Angel Tomasino, Representative, addressed drainage issues regarding the carport and explained the owners thought reasons for constructing the carport.

Angel Quirino, contractor, explained the project took three days to build with a ten man crew.

**No one appeared to speak.**

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-17-147 closed.

## MOTION

A motion was made by **Mr. Finlay**. “Regarding Appeal No. A-17-147, a request for 1) a 4.5 foot variance from the 10 foot front setback to allow a carport 5.5 feet from the front setback; 3) an 11% variance from the limitation of impervious cover in the front yard to allow 61% impervious cover, subject property being Lot 7, Block 47, NCB 7095, situated at 1510 West Olmos Drive, applicant being Irma G. Tamez.

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, in its current location does not interfere with the Clear Vision requirements and does not obstruct clearance for the public right-of-way. Restrictions on driveway areas are designed to avoid the domination of front yards and reduce runoff. The 11% increase in impervious cover is not overbearing on the site and does not significantly increase runoff, especially considering the majority of the impervious cover is underneath the carport. The encroachment into the side setback does not increase the risk for fire spread.**

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 home has built no garage and there is not adequate coverage for vehicles on the property. Denial of the requests would result a loss of parking area on site, resulting in the owner parking on the street.**

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 the front setback is to prevent overcrowding of front yards and the request fulfills this intent. Additionally, the impervious coverage requirements are intended to prevent large expanses of impervious surfaces which deaden the streetscape and can discourage pedestrian activity. As there is still 39% green space and landscaping, the impervious cover does not completely dominate the front yard.**

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 request to reduce the front setback has no negative impact on the neighboring properties as it does not interfere with Clear Vision from the neighboring driveway and the opposite adjacent property is vacant. The amount of impervious cover does not negatively impact the adjacent property and there is green space on the property to collect and prevent excessive runoff in the street. The overhang's encroachment into the side setback does not negatively impact the adjacent 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 unique circumstance existing on the property is the existing driveway which is only 26 feet in depth and can only accommodate one vehicle. Any structure that fully covers the entire length of a vehicle would encroach into some portion of the front setback. Further, to accommodate the needed off-street, the additional paved area is necessary for the owner's vehicles, to prevent parking on grass." Mr. Rodriguez seconded the motion.

**AYES: Finlay, Rodriguez, Britton, Cruz, Teel, Martinez, Rogers**

**NAYS: Zuniga, Ojeda, Quijano**

#### **THE VARIANCE FAILED**

**Ms. Rogers separated Item #2 in the motion for a separate vote.**

"Regarding Appeal No. A-17-147, a request for 2) a 2 foot variance to allow an eave overhang to be one foot from the side property line, subject property being Lot 7, Block 47, NCB 7095, situated at 1510 West Olmos Drive, applicant being Irma G. Tamez.

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. The specifics were stated in the previous motion." The motion was seconded by **Mr. Teel**.

**AYES: Finlay, Teel, Rodriguez, Cruz, Rogers**

**NAYS: Zuniga, Britton, Martinez, Ojeda, Quijano**

#### **THE VARIANCE FAILED**

**Mr. Acosta re-entered the Board of Adjustment Meeting.**



**Case Number: A-17-157**

Applicant: Rhonda Williams  
Owner: Rhonda Williams  
Council District: 2  
Location: 727 South Mesquite Street  
Legal Description: Lot 2, Block 38, NCB 637  
Zoning: "RM-4 AHOD" Residential Mixed Airport Hazard Overlay District  
Case Manager: Shepard Beamon, Senior Planner

**Request**

A request for a five (5) foot variance from the 10 foot front setback, as described in Section 35-310.01, to allow a carport five (5) feet from the front property line.

Shepard Beamon, Senior Planner, presented background information, and staff's recommendation of the variance requests. He indicated 31 notices were mailed, 0 returned in favor, and 0 returned in opposition and no response from the Alamo Gardens Neighborhood Association.

Rhonda and Sloan Williams, applicant, explained permits were pulled and permission was given later it was discovered the wrong plat was used to give the permits causing the applicant to appear before the Board.

**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-17-157 closed.

**MOTION**

A motion was made by **Ms. Ojeda**. "Regarding Appeal No. A-17-157, a request for a 5 foot variance from the 10 foot front setback to allow a carport 5 feet from the front property line, subject property being Lot 2, Block 38, NCB 637, situated at 727 South Mesquite Street, applicant being Rhonda Williams Sloan.

I move that the Board of Adjustment grant the applicant's request for the variance to the subject property as described above, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

1. *The variance is not contrary to the public interest.*

**The request is not contrary to the public interest as the carport does not increase the risk for rite spread to the adjacent property.**

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



**Literal enforcement of the ordinance would reduce the length of the carport and not cover the full length of the owner's vehicles.**

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 observed as the carport does not increase water runoff on the adjacent property.**

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 "RM-4 AHOD" Residential Mixed 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 allows room for maintenance without trespass on the neighboring property or the public right-of-way.**

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 depth of the driveway which requires the additional five feet of a carport for full coverage of a vehicle." The motion was seconded by Mr. Martinez.**

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

**NAYS: None**

**THE VARIANCE IS GRANTED**

**Case Number: A-17-163**

Applicant: Martin Barrera Zuniga  
 Owner: Martin Barrera Zuniga and Hortencia Saucedo  
 Council District: 6  
 Location: 215 Westoak Road  
 Legal Description: Lot 4, Block 3, NCB 15582  
 Zoning: "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District  
 Case Manager: Shepard Beamon, Senior Planner

### Request

A request for a four (4) foot variance from the 10 foot front setback, as described in Section 35-310.01, to allow a carport six (6) feet from the front property line.

Shepard Beamon, Senior Planner, presented background information, and staff's recommendation of the variance request. He indicated 22 notices were mailed, 1 returned in favor, 1 returned in opposition and no response from the Lackland Terrace Neighborhood Association.

Hortencia Saucedo Barrera, applicant, stated the carport was constructed to protect her from the weather and handicapped mother.

### **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-17-163 closed.

### **MOTION**

A motion was made by **Mr. Rodriguez**. "Regarding Appeal No. A-17-163, a request for a 4 foot variance from the 10 foot front setback to allow a carport 6 feet from the front property line, subject property being Lot 4, Block 3, NCB 15582, situated at 215 Westoak Road, applicant being Martin Barrera Zuniga.

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 carport, in its current location does not interfere with the Clear Vision requirements and does not obstruct clearance for the public right-of-way.**

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 home has no garage and there is not adequate coverage for vehicles on the property. The carport was constructed to protect vehicles from inclement weather, and without it, would leave the owner's personal property susceptible to damages.**

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 law. In this case, the intent of the front setback is to prevent overcrowding of front yards and the request fulfills this intent.**

4. *The variance will not authorize the operation of a use other than those uses specifically authorized*  
**in the “R-6 AHOD” Residential Single-Family Airport Hazard Overlay District.**
5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*

**The carport has no negative impact on the neighboring properties as it does not interfere with Clear Vision from the neighboring driveway. Further, the carport provides room for maintenance without trespass and does create water runoff on the adjacent property or public right-of-way.**

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 location of the driveway on a cul-de-sac, which creates difficulty in locating the property line and meeting the front setback.” Mr. Finlay seconded the motion.**

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

**NAYS: None**

**THE VARIANCES ARE GRANTED.**

**Case Number: A-17-164**

Applicant: Chriselda Perez  
 Owner: Chriselda Perez  
 Council District: 5  
 Location: 1340 Chalmers Avenue  
 Legal Description: Lots 20 and 21, Block 6, NCB 7928  
 Zoning: “R-4 AHOD” Residential Single-Family Airport Hazard Overlay District  
 Case Manager: Shepard Beamon, Senior Planner

### **Request**

A request for 1) a 9 foot 11 inch variance from the 10 foot front setback, as described in Section 35-310.01, to allow a carport one inch from the front property line and 2) a 4 foot 6 inch variance from the 5 foot side setback, as described in Section 35-310.01, to allow a carport to be six inches from the side property line.

Shepard Beamon, Senior Planner, presented background information, and staff's recommendation of the variance request. He indicated 45 notices were mailed, 2 returned in favor, 1 returned in opposition.

Chriselda Perez, applicant, explained she hired a contractor who she believed would get a permit. The carport was built to aide with her Autistic children. They are afraid of rain and make it difficult for the applicant to fasten them in the car.

**The following Citizens appeared to speak.**

Teresa Lemus: spoke in opposition and was concerned of water runoff.

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-17-164 closed.

**MOTION**

A motion was made by **Mr. Teel**. "Regarding Appeal No. ~~A-17-164~~, a request for a 1) a 9'11" variance from the 10 foot front setback to allow a carport and home addition one inch from the front property line and 2) a 4.5 foot variance from the **5** foot side setback to allow a carport to be six inches from the side property line, subject property being Lots 20 and 21, Block 6, NCB 7928, situated at 1340 Chalmers Avenue, applicant being Chriselda Perez.

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.*

**As the carport's encroachment into the front setback poses no immediate threat to general public, the request is not contrary. A three side setback would provide the needed space to maintain the structure.**

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 five side setback would not allow a vehicle to be parked as the driveway measures only 10 feet wide. A reduction of the side setback to three feet would still provide eight feet for parking. Further, the carport is necessary for the daily activities of the family. Removal of the structure 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 carport assists the owner with safely entering and exiting the home from the vehicle as a family member has a disability which creates difficulty in doing so. The reduction to a three foot side setback provides room to maintain the structure without trespass on the neighboring property.**

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.*

**As the carport is composed of metal, it is unlikely to increase the risk of fire spread to the adjacent property. An alternate recommendation of a three foot side setback would reduce the amount of water runoff on the adjacent 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.*

**However, the full five foot side setback restricts parking on the property. A reduction to a three foot side setback would provide adequate separation between properties. Further, meeting the front setback would result in a significant amount of vehicle coverage. The motion was seconded by Mr. Zuniga.**

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

**THE VARIANCES ARE GRANTED.**

**Ms. Rogers made a motion to approve the August 21, 2017 minutes with all members voting in the affirmative.**

**Directors Report: Staff notified the Board of an upcoming work session in October and an update on prior Board of Adjustment cases.**

**There being no further discussion, meeting adjourned at 5:45 pm.**

APPROVED BY: Mary Rogers OR Oct 2, 2017  
Chairman Vice-Chair

DATE: \_\_\_\_\_

ATTESTED BY: M. H. [Signature] DATE: Oct 4, 17  
Executive Secretary