

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
March 5, 2018**

DRAFT

Members Present: Dr. Zottarelli
Alan Neff
Denise Ojeda
George Britton Jr
Maria Cruz
Seth Teel
Mary Rogers
Donald Oroian
John Kuderer
Jeff Finlay

Staff:
Catherine Hernandez, Planning Manager
Joseph Harney, City Attorney
Logan Sparrow, Principal Planner
Debora Gonzalez, Senior Planner
Dominic Silva, Planner

Call to Order

Pledge of Allegiance to the U.S. and Texas Flags.

Mr. Kuderer, called the meeting to order and called roll of the applicants for each case.

Maria Zamora, World Wide Languages-Interpreter, present.

Mr. Neff made a motion to postpone Items A-18-027 and A-18-020 to April 2, 2018. Ms. Ojeda seconded the motion. Mr. Kuderer took a voice vote and the item passed unanimously.

Mr. Kuderer then called Paula Bondurant to the podium who spoke in opposition on Item A-18-020 which was postponed to April 2, 2018.

Case Number: A-18-039
Applicant: Virginia Losoya
Owner: Virginia Losoya
Council District: 2
Location: 248 West Cheryl Drive
Legal Description: Lot 71A, Block B, NCB 11508
Zoning: "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager: Dominic Silva, Planner

Request

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

Dominic Silva, Planner, presented the background information and staff's recommendation of the variance. He indicated 24 notices were mailed, 0 returned in favor, and 0 returned in opposition with no response from the University Park Neighborhood Association.

Virginia Losoya, applicant stated with the failing health of her husband she decided to work from home with limited work hours of Tuesday, Thursday and Friday from 10am-5pm and Saturday from 10am-4pm and asked for the Boards approval.

No Citizen 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-18-039 closed.

MOTION

A motion was made by **Ms.Cruz**. "Regarding Appeal No A-18-039, a request for a special exception to allow a one-operator beauty/barber shop within a single-family home, situated at 248 West Cheryl Drive, applicant being Virginia Losoya.

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 and purpose of the chapter is 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 public welfare and convenience will be served as it will provide a valuable service to the residents of the neighborhood. The proposed hours of operation will be limited to Tuesday, Thursday and Friday from 10am-5pm and Saturday from 10am-4pm.

- 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 residence.

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 residence. 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 Ms. Ojeda.

AYES: Cruz, Ojeda, Teel, Finlay, Britton, Dr. Zottarelli, Rogers, Neff, Oroian, Kuderer
NAYS: None

THE SPECIAL EXCEPTION IS GRANTED.

Case Number:	A-18-044
Applicant:	Juan Jose Saenz
Owner:	Juan Jose Saenz
Council District:	1
Location:	1101 West Russell Place
Legal Description:	Lot 47 and 48, Block 47, NCB 1869
Zoning:	“R-6 NCD-5 AHOD” Residential Single Family Beacon Hill Neighborhood Conservation Airport Hazard Overlay District
Case Manager:	Dominic Silva, Planner

Request

A request for a variance from the Beacon Hill Neighborhood Conservation District design standard that restricts reducing the size of a front porch to allow for the enclosure of a portion of the front porch.

Dominic Silva, Planner presented the background information and staff’s recommendation of the variance. He indicated 30 notices were mailed, 0 returned in favor, and 1 returned in opposition. No response from the Beacon Hill Neighborhood Association.

Juan Jose Saenz, stated he recently adopted his grandchildren and was in need of extra bedrooms for them in order to comply with CPS guidelines. He designed the home to be in keeping with the neighborhood and asked for Boards approval.

The Following citizens appeared to speak.

Mark Spielman, 1101 W. Russell – 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-18-044 closed.

MOTION

A motion was made by Dr. **Zottarelli**, “Regarding Appeal No. A-18-044 a request for a variance from the Beacon Hill Neighborhood Conservation District design standard that restricts reducing the size of a front porch to allow for the enclosure of a portion of the front porch, situated at 1101 West Russell Place, applicant being Juan Jose Saenz.

I move that the Board of Adjustment grant the applicant’s request for the variances 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 the design requirements intended to provide for consistent development within the Beacon Hill Neighborhood Conservation District. As such, the board finds that this project does follow the guidelines as set forth in the design requirements.

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

A literal enforcement of the ordinance could create unnecessary hardship in the applicant having to remove the enclosure of the existing porch.

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

The front porch requirement within the Beacon Hill Neighborhood Conservation District is to ensure that future development and rehabilitation matches the context of the neighborhood. The Board has determined that the rehabilitation matches the context of the Beacon Hill Neighborhood Conservation District and is within design guidelines.

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

The requested variance will not permit a use not authorized within the “R-6 NCD-5 AHOD” Residential Single Family Beacon Hill Neighborhood Conservation District 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 board finds that this variance will not substantially alter the essential character of the district in which the property is located as it follows the design requirements of the Beacon Hill Neighborhood Conservation District and keeps the front patio intact.

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 circumstances existing on the property are due to the small lot size in relation to the building; the applicant chose instead to expand habitable space within the original building footprint.” The motion was seconded by Ms. Rogers.

AYES: Dr. Zottarelli, Rogers, Oroian, Ojeda, Britton, Martinez, Cruz, Finlay, Teel, Kuderer

NAYS: None

THE VARIANCE HAS BEEN GRANTED

Case Number: A-18-030
Applicant: Hoda Cummings
Owner: Hoda Cummings
Council District: 1
Location: 431 Adams Street
Legal Description: Lot 9, Block 5, NCB 2880

Zoning: “RM-4 H AHOD” Residential Mixed King William Historic Airport Hazard Overlay District
Case Manager: Debora Gonzalez, Senior Planner

Request

A request for 1) a three foot and six inch variance from the five foot side and rear setbacks, as described in Section 35-370, to allow a new accessory dwelling unit with attached garage to be located one foot and six inches from the side and rear property lines and 2) a request for a 17 foot variance from the 20 foot garage setback to allow a garage to be three feet from the property line.

Debora Gonzalez, Senior Planner, presented background, and staff’s recommendation of the variance requests. She indicated 32 notices were mailed, 4 returned in favor, and 1 returned in opposition and no response from the King William Neighborhood Association.

Hoda Cummings, applicant stated the existing garage is rotting and unsafe and needs to replace the structure for her vehicles 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-18-030 closed.

MOTION

A motion was made by **Mr. Teel**. “Regarding Appeal No A-18-030 a request for 1) a three foot and six inch variance from the five foot side and rear setbacks to allow a new accessory dwelling unit with attached garage to be located one foot and six inches from the side and rear property

lines and 2) a request for a 17 foot variance from the 20 foot garage setback to allow a garage to be three feet from the property line, situated at 431 Adams Street, applicant being Hoda Cummings.

I move that the Board of Adjustment grant the applicant's request for the variances 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 variances are not contrary to the public interest as the structure provides room for maintenance, will not create water runoff on the adjacent property, and will not injure the rights of the adjacent property owners. No portion of the proposed accessory detached dwelling unit is in violation of the Clear Vision field.

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

Literal enforcement of the ordinance would result in not allowing the owner of the property to build the requested accessory detached dwelling unit as proposed.

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 provide for a safe development pattern. Both requests provide fair and equal access to air and light, and provide for adequate fire separation.

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 "RM-4 H AHOD" Residential Mixed King William Historic Airport Hazard Overlay District.

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

If the requested variances are approved, the accessory detached dwelling unit will not alter the character of the district, which in older neighborhoods such as this, it is common for accessory units to be located within the side and rear setbacks established by the current Unified Development 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 unique circumstance existing on the property is that the proposed structure in question will originally be built in the current location as a two-car garage in line

with the existing driveway. There is an existing cement slab used for the garage and it will be reused for the proposed structure.” Mr. Oroian seconded the motion.

Mr. Oroian made an **amendment** to increase the setback, which was not accepted by **Mr. Teel**.

AYES: Teel, Dr. Zottarelli, Cruz, Rogers, Ojeda, Finlay, Britton, Finlay, Kuderer

NAYS: Oroian

THE VARIANCE IS GRANTED

The Board of Adjustment recessed for a 5 min break at 2:00pm and reconvened and returned at 2:05pm.

Case Number:	A-18-041
Applicant:	Irma Tamez
Owner:	Irma 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:	Debora Gonzalez, Senior Planner

Request

A request for 1) to waive the 12-month time limitation of Section 35-482(f) of the UDC regarding a subsequent variance application on the property and 2) a four foot variance from the ten foot front setback, as described in Section 35-310.01, to allow a carport to be six feet from the front setback.

Debora Gonzalez, Senior Planner, presented the background information, and staff’s recommendation of the variance request. She indicated 39 notices were mailed, 6 returned in favor, 1 returned in opposition and no response from the Los Angeles Heights Neighborhood Association.

Irma Tamez, applicant asked the Board to waive the 12 month time limitation and reconsider her case. Ms. Tamez agreed to trim the eaves and remove the agreed upon concrete in order to conform to the code.

The following Citizens appeared to speak.

Ascencion Torrez- 514 W. Olmos, 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-18-041 closed.

MOTION

Mr. Neff made a motion. “Regarding Appeal No A-18-041 request for 1) to waive the 12-month time limitation of Section 35-482(f) of the UDC regarding a subsequent variance application on the property.” **Ms. Ojeda** seconded the motion.

AYES: Neff, Oroian, Dr. Zottarelli, Teel, Cruz, Rogers, Finlay, Britton, Kuderer

NAYS: Ojeda

MOTION TO WAIVE THE 12 MONTH LIMITATION PASSES.

Mr. Neff made a motion. “Regarding Appeal No A-18-041 request for a four foot variance from the ten foot front setback to allow a carport to be six feet from the front setback, situated at 1510 West Olmos Drive, applicant being Irma Tamez.” Mr. Oroian seconded the motion.

I move that the Board of Adjustment grant the applicant’s request for the variances 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 variance is not contrary to the public interest as the structure will provide room for maintenance, will not create water runoff on the adjacent property, and will not injure the rights of the adjacent property owners.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
Literal enforcement of the ordinance would result in an unnecessary hardship as the home was built with no garage and there is not adequate coverage for vehicles on 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 requested setback will still provide for a safe development pattern. The request provides fair and equal access to air and light, and provide for adequate fire separation.
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.*
If the requested variances are approved, the carport will not have a 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.
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. Therefore, any structure that fully covers the entire length of a vehicle would encroach into some portion of the front setback. Mr. Oroian seconded the motion.

AYES: Neff, Ojeda, Dr. Zottarelli, Teel, Cruz, Rogers, Finlay, Britton, Kuderer
NAYS: Oroian

THE VARIANCE IS GRANTED

Mr. Kuderer recused himself from case A-18-043 at 2:35pm

Case Number:	A-18-043
Applicant:	Pedro Rodriguez
Owner:	Pedro Rodriguez
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:	Debora Gonzalez, Senior Planner

Request

A request for 1) to waive the 12-month time limitation of Section 35-482(f) of the UDC regarding a subsequent variance application on the property and 2) a request for a 222 square foot variance from the 800 square foot maximum accessory dwelling unit size as described in Section 35-371, to allow an 1022 square foot accessory dwelling unit in the rear yard.

Debora Gonzalez, Senior Planner, presented background information, and staff’s recommendation of the variance requests. She indicated 21 notices were mailed, 0 returned in favor, 0 returned in opposition and no response from the Canyon Creek Neighborhood Association.

Pedro Rodriguez, applicant stated after redesigning his plans for the structure and working with the neighborhood association they came to an agreement on the property. Mr. Rodriguez also stated he needed the room for his family and church members when they come into town to visit.

The following citizens appeared to speak.

Michael Ulmer, 17540 Blanco Rd- spoke in favor

Dennis Means, 107 Lariat- 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-18-043 closed.

MOTION

A motion was made by **Mr. Finlay**. “Regarding Appeal No A-18-043, a request to waive the 12-month time limitation of Section 35-482(f) of the UDC regarding a subsequent variance application on the property, Dr. Zottarelli seconded the motion.

AYES: Finlay, Dr. Zottarelli, Neff, Ojeda, Teel, Oroian, Cruz, Rogers, Britton,

NAYS: None

THE MOTION TO WAIVE 12 MONTH LIMITATION IS GRANTED.

A motion was made by **Mr. Finlay**. “Regarding Appeal No A-18-043, a request for a 222 square foot variance from the 800 square foot maximum accessory dwelling unit size to allow an 1022 square foot accessory dwelling unit in the rear yard, 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 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 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 **Dr. Zottarelli.”**

AYES: Finlay, Dr. Zottarelli, Teel, Cruz, Britton, Neff, Martinez, Oroian, Rogers

NAYS: None

THE VARIANCE IS GRANTED

Mr. Kuderer returned to the meeting at 3:05pm.

Case Number:	A-18-042
Applicant:	Peter and Janet Grojean
Owner:	Peter and Janet Grojean
Council District:	10
Location:	433 Bryn Mawr
Legal Description:	Lot 9, Block 33, NCB 9072
Zoning:	“MF-33 AHOD” Multi-Family Airport Hazard Overlay District
Case Manager:	Dominic Silva, Planner

Request

A request for a two foot variance from the five foot side setback to allow for an accessory dwelling unit to be three feet from the side property line.

Dominic Silva, Planner, presented background information, and staff's recommendation of the variance request. He indicated 31 notices were mailed, 1 returned in favor, 0 returned in opposition and no response from the Terrell Heights Neighborhood Association.

Peter Grojean, applicant gave a detailed presentation that shows how they have upgraded the property. Mr. Grojean wishes to keep this property as a rental so he will have income in his retirement as asked for the Boards approval.

The following citizens appeared to speak.

Janet Grojean-433 Bryn Mawr, 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-18-042 closed.

MOTION

A motion was made by **Ms. Cruz**. "Regarding Appeal No A-18-042 a request for a three foot variance from the five foot side and rear setback to allow for an accessory dwelling unit to be two feet from the side and rear property line, situated at 433 Bryn Mawr, applicant being Peter and Janet Grojean.

I move that the Board of Adjustment grant the applicant's request for the variances 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 existing structure is being converted and the footprint is not expanding.

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

The special condition present in this case is due to the structure existing as a garage, a literal enforcement of the ordinance would result in unnecessary hardship by requiring portions of the structure be removed.

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

The intent of the setback limitation is to prevent fire spread, allow adequate space for maintenance, and encourage proper storm water drainage. All intents of this law will be observed if approved.

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

The requested variance will not permit a use not authorized within 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 variance would not place the structure out of character within the community. Further, the accessory dwelling is highly unlikely to be seen from 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 in this case is the character of rear yards within the district for accessory dwelling units is predominantly compact, leaving little room for proper building setbacks.” Mr. Neff seconded the motion.

AYES: Oroian, Neff, Cruz, Martinez, Finlay, Teel, Rogers, Britton, Dr. Zottarelli, Kuderer

NAYS: None

THE VARIANCE PASSES

Mr. Kuderer made a motion to approve the February 19, 2018 minutes with all members voting in the affirmative.

Manager’s report: Staff reminded the Boards to submit their Financial Disclosure Reports for 2017.

There being no further discussion, meeting adjourned at 3:45 p.m.

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary