

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
May 7, 2018**

Members Present:	Dr. Zottarelli Alan Neff Denise Ojeda George Britton Jr Maria Cruz Seth Teel Mary Rogers Donald Oroian John Kuderer Roger Martinez Henry Rodriguez	Staff: Catherine Hernandez, Planning Manager Joseph Harney, City Attorney Logan Sparrow, Principal Planner Debora Gonzalez, Senior Planner Dominic Silva, Planner
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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.

Herman Perez, World Wide Languages-Interpreter, present.

Item #A-18-066 Has been postponed.

Mr. Martinez entered the meeting at 1:03pm

Ms. Ojeda entered the Meeting at 1:06pm

Case Number:	A-18-082
Applicant:	Joanna Ramos
Owner:	Joanna Ramos
Council District:	7
Location:	60 Vaughan Place
Legal Description:	Lot 3, Block 2, NCB 10447
Zoning:	"R-4 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 recommendations. He indicated 29 notices were mailed, 2 returned in favor, 0 returned in opposition and no response from the Maverick Neighborhood Association.

Jorge and Joanna Ramos, applicants gave a brief history of their business and stated no complaints have ever been filed and continue to work with the Neighborhood Association and community. Mr. Ramos answered all questions and respectfully asked for the Boards approval.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No A-18-082 closed.

No Citizens appeared to speak.

A motion was made by Mr. Rodriguez. "Regarding Appeal No A-18-082, a request for a special exception to allow a one-operator beauty/barber shop within a home, situated 60 Vaughan Place, applicant being Joanna Ramos.

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 requested special exception will be in harmony with the spirit and purpose of the chapter in that the proposed one-operator beauty salon will follow the specified criteria established in Section 35-399.01 in the Unified Development Code.

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

The public welfare and convenience will be served with the granting of this request as it will provide a valuable and needed public service to the residents of the neighborhood and it will not negatively impact surrounding properties.

- 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 shop will occupy only a small part of the structure, and the fact that a beauty shop is being operated from the home will likely be indiscernible to passersby. As such, neighboring properties will not be substantially injured.

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 will not alter the essential character of the district as the use will likely be indiscernible to passersby.

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 zoning district is to promote the public health, safety, morals, and general welfare of the city. The granting of this special exception will not weaken these purposes, nor will it weaken the regulations established for this district.” A second was made by Mr. Martinez.

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

NAYS: None

THE SPECIAL EXCEPTION IS GRANTED.

Mr. Oroian recused himself from case #A-18-080 at 1:18pm

Case Number:	A-18-080
Applicant:	Key Properties
Owner:	Key Properties
Council District:	1
Location:	244 West Cevallos Street
Legal Description:	Lot 13, Block 1, NCB 1011
Zoning:	“O-1 RIO-7E AHOD” Office River Improvement Overlay Airport Hazard Overlay District
Case Manager:	Dominic Silva, Planner

Request

A request for 1) a 14’11” variance from the 15’ Type B landscape bufferyard, as described in Section 35-510, to allow a bufferyard to be as narrow as 1” along the east and south property lines and 2) a 9’11” variance from the 10’ Type A bufferyard requirement to allow a bufferyard to be as narrow as 1” along the north property line and 3) a special exception to allow an 8’ tall predominately open fence along all four property lines.

Dominic Silva, Planner, presented the background information and staff’s recommendation of the variance. He indicated 17 notices were mailed, 0 returned in favor, and 0 returned in opposition with the North Central Neighborhood Association opposed items 1&2 (bufferyards).

Michael P. Sepeda, 221 W. Rhapsody, representative stated the property was purchased by Key Properties for off street parking for their employees who experienced vandalism when parking on the street. He gave a history on the business and presented documents pertaining to the parking lot. They proceeded to change the zoning on the property and went through the HDRC. He also stated they began work before getting a permit and were fined \$2000.00 for removing trees and had no buffer yards. He proceeded to ask the board for 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-18-080 closed.

MOTION

A motion was made by **Dr. Zottarelli**. "Regarding Appeal No A-18-080, a request for a 1) a 14'11" variance from the 15' Type B landscape bufferyard to allow a bufferyard to be as narrow as 1" along the east and south property lines and 2) a 9'11" variance from the 10' Type A bufferyard requirement to allow a bufferyard to be as narrow as 1" along the north property line, situated at 244 West Cevallos Street, applicant being Key Properties.

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 requested decrease in bufferyard is not contrary to the public interest as it does not negatively impact any surrounding properties or the general public.

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

Literal enforcement would not allow the redevelopment of the once vacant property to continue as proposed due to the narrow configuration of the lot and establishing bufferyards as required.

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

In this case, the proposed bufferyards will adhere to the spirit of the ordinance and substantial justice will be done by allowing redevelopment of the vacant property to continue.

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 by the “O-1 RIO-7E AHOD” Office River Improvement 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 requested allowance of 1” bufferyards would enhance the overall appearance of the property, streetscape, and district.

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

The plight of the owner for which the variance is sought is due to the owner rehabilitating a vacant lot with a narrow configuration preventing full use of the property for secure parking.” The motion was seconded by Mr. Teel.

Mr. Martinez made an amendment to the motion to include a 5 foot bufferyard to the south property line and Dr. Zottarelli accepted the motion. Mr. Kuderer asked for a voice vote and passed 7-3.

Mr. Neff then made the previous amendment to include a 10 foot variance from the 15 foot bufferyard to create a 5 foot bufferyard from the west and south side of the property. Ojeda seconded the Amendment. Mr. Kuderer took a voice vote and amendment passed 6-4.

Mr. Kuderer then called for the Main Motion as amended.

**AYES: Dr. Zottarelli, Teel, Cruz, Rogers, Martinez, Neff, Rodriguez, Kuderer
NAYS: Britton, Ojeda**

THE VARIANCE FAILED

Mr. Kuderer called for the motion on the Special Exception regarding the Fence.

Dr. Zottarelli made a motion. “Regarding Appeal No A-18-080, a request for a special exception to allow an 8’ tall predominately open fence along all four property lines, situated at 244 West Cevallos Street, applicant being Key Properties.

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 states the Board of Adjustment can grant a special exception for a fence height modification up to eight feet. The additional fence height is intended to provide safety and security of the applicant's property. If granted, this request would be in harmony with the spirit and purpose of the ordinance.

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

In this case, these criteria are represented by maximum fence heights to protect commercial property owners while still promoting a sense of community. An 8' tall predominately open fence was built along all four property lines to provide additional security for the parking lot. This is not contrary to the public interest.

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

The fence will create enhanced security for the subject property and is highly unlikely to injure adjacent properties. Further, the fencing does not violate Clear Vision standards.

- 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 fencing does not detract from the character of the neighborhood. The fencing is in line with other preexisting fencing material and height within the immediate vicinity.

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

The property is located within the "O-1 RIO-7E AHOD" Office River Improvement Overlay Airport Hazard Overlay District and permits the current use of a commercial use parking lot. The requested special exception will not weaken the general purpose of the district." Ms. Rogers seconded the vote.

AYES: Dr. Zottarelli, Rogers, Teel, Cruz, Martinez, Britton, Rodriguez, Kuderer

NAYS: Neff, Ojeda

THE VARIANCE FAILED

The Board of Adjustment convened for a short break at 2:03 pm and reconvened 2:10 pm.

Mr. Oroian reentered the meeting at 2:10 pm

Case Number: A-18-076
Applicant: Mitsuko Ramos, Government Relations Group of TX
Owner: Daniel Martinez, Lemas Holdings, LLC
Council District: 2
Location: 11460 IH-10 East and 11402 IH-10 East
Legal Description: Lot 5, Block 2, NCB 18226 / P-8J and A-828, CB 5083 and P-8J, NCB 18226
Zoning: "C-2 CD AHOD" Commercial Airport Hazard Overlay District with Conditional Use for Manufactured Home/Oversized Vehicle Sales, Service, or Storage and "C-2 AHOD" Commercial Airport Hazard Overlay District
Case Manager: Debora Gonzalez, Senior Planner

Request

A request for variances from the bufferyard requirements set forth by Section 35-510, on 11460 IH-10 East: for 1) to waive the planting requirement for trees and shrubs along the front bufferyard to allow a buffer containing native vegetation only and 2) a 10' variance from the 15' Type B bufferyard along the front property line to allow the front bufferyard to be 5' deep and 3) to waive the planting requirement for shrubs along the eastern side bufferyard to allow a bufferyard to contain only trees and 4) a 10' variance from the 15' Type B landscaped bufferyard along the east property line to allow a 5' deep bufferyard, and on 11402 IH-10 East: A request for 1) to waive the planting requirement for trees and shrubs along the front buffer yard to allow a buffer containing native vegetation only and 2) a 10' variance from the 15' Type B bufferyard along the front property line to allow the front bufferyard to be 5' deep.

Debora Gonzalez, Senior Planner presented the background information and staff's recommendation of the variance. She indicated 3 notices were mailed, 1 returned in favor, and 0 returned in opposition with no neighborhood association.

Mitsuko Ramos, representative, gave a presentation regarding the property. She stated the applicants concerns regarding planting trees along the easements along the property. She also discussed agreements with the neighbors and took water safety and neighborhood concerns under consideration. After answering all questions Ms. Ramos respectfully 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-18-076 closed.

Mr. Neff made a motion. "Regarding Appeal No A-18-076, a request for variances from the bufferyard requirements on 11460 IH-10 East: for 1) to waive the planting requirement for trees and shrubs along the front bufferyard to allow a buffer containing native vegetation only and 2) a **7.5 ft** variance from the 15' Type B bufferyard along the front property line to allow the front bufferyard to be **7.5 ft** deep and 3) to waive the planting requirement for shrubs along the eastern side bufferyard to allow a bufferyard to contain only trees and 4) a **7.5 ft** variance from the 15' Type B landscaped bufferyard along the east property line to allow a **7.5ft** deep bufferyard,

and on 11402 IH-10 East: A request for 1) to waive the planting requirement for trees and shrubs along the front buffer yard to allow a buffer containing native vegetation only and 2) a **7.5 ft** variance from the 15' Type B bufferyard along the front property line to allow the front bufferyard to be **7.5ft** deep, situated at 11460 IH-10 East and 11402 IH-10 East, applicant being Mitsuko Ramos, Government Relations Group of TX.

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

Specifically, we find that:

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

The public interest is represented by the quantity of plantings required in a bufferyard to separate incompatible uses. The five foot bufferyards are not contrary to public interest as they do not negatively impact any surrounding properties or the general public. The applicant is seeking to replace the planting requirement for trees and shrubs with native vegetation. As the applicant is not requesting for the complete elimination of the bufferyards, the requests are not contrary to the public interest.

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

Literal enforcement would not allow the development of the new building as proposed. Approval of the requested variance would provide a landscape plan along the subject property with native vegetation maintaining planting requirements.

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

In this case, the proposed bufferyards and native vegetation will improve the existing property appearance.

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

The requested variances will not authorize the operation of a use on the subject property other than those specifically permitted in the "C-2 CD AHOD" Commercial Airport Hazard Overlay District with Conditional Use for Manufactured Home/Oversized Vehicle Sales, Service, or Storage of "C-2 AHOD" Commercial Airport Hazard Overlay District.

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

The request should not injure the rights of the neighboring properties as the introduction of a five foot buffer would only enhance the overall appearance of the existing 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 existing site does not currently have any large mature trees, and accommodating the new building within the existing conditions of the 15 foot bufferyard requirement restricts the development of a new building and circulation for the business.” Mr. Martinez seconded the motion.

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

NAYS: None

THE VARIANCE IS GRANTED.

Case Number:	A-18-074
Applicant:	Felix Ziga
Owner:	Henneke Financial Group, LLC
Council District:	2
Location:	1111 East Crockett & 1115 East Crockett Street
Legal Description:	The West 32.83 Feet of the East 65.66 Feet of Lot 5 ARB A7 and The East 34.3 Feet of Lot 5 ARB A-8, Block D, NCB 578
Zoning:	“RM-4 H AHOD” Residential Mixed Dignowity Hill Historic Airport Hazard Overlay District
Case Manager:	Debora Gonzalez, Senior Planner

Request

A request for a parking adjustment, as described in Section 35-526, to allow for two residential lots to contain no off-street parking.

Debora Gonzalez, Senior Planner, presented background, and staff’s recommendation of the variance requests. She indicated 35 notices were mailed, 0 returned in favor, and 12 returned in opposition and no response from the Dignowity Hills Neighborhood Association.

Felix Ziga, 1218 E. Euclid Ave, representative began by clarifying the lot lines that were in question and explained that they did do a survey and worked within those lines. He stated they are trying to avoid the replat process. He also stated the tandem parking spots are for the 1111 and not shared address and the 1115 address would use the rear parking. He also expressed concerns regarding the historic design guidelines and the UDC. After answering all question he asked for the Boards approval.

Edward Hall- O.H.P., 1901 S. Alamo, answered questions from the Board.

The Following citizens appeared to speak.

Monica Savinlo, 1120 E. Crockett, spoke in opposition.

Margaret Winn, 1119 E. Crockett, spoke in favor.

Mark Kusey, 119 Potomac, 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-18-074 closed.

Mr. Neff made a motion. "Regarding Appeal No A-18-074, a request for a parking adjustment to allow for two residential lots to contain no off-street parking, situated at 1111 East Crockett & 1115 East Crockett Street, applicant being Felix Ziga.

I move that the Board of Adjustment grant the applicant's request for the parking adjustment 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:

According to Section 35-526(b) 7 of the UDC, in order for a parking modification to be granted, the applicant must demonstrate that a hardship is created by strict interpretation. The UDC requires off-street "primary" parking/driveway. Literal interpretation of the UDC code requirement would cause financial hardship and potentially yield this property unbuildable. The applicant has complied with all Historic Design Guidelines and obtained approval from the Historic Design Review Commission of the site as submitted. Although the UDC required parking spots would fit in front of each structure, this would be in direct conflict with the Historic Design Guidelines."

Mr. Martinez seconded the motion.

AYES: Teel

NAYS: Neff, Martinez, Dr. Zottarelli, Cruz, Rogers, Britton, Rodriguez, Ojeda, Oroian, Kuderer

APPEAL FAILS

The Board of Adjustment convened for a short break at 3:36pm and reconvened at 3:43pm

Case Number:	A-18-072
Applicant:	Henry Gomez
Owner:	Henry Gomez
Council District:	3
Location:	507 Astor Street
Legal Description:	Lot 17, NCB 6841
Zoning:	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District

Case Manager: Dominic Silva, Planner

Request

A request for 1) a 4'11" variance from the 5' side setback, as described in Section 35-310.01, to allow an attached carport to be located 1" from the side property line and 2) a 9' variance from the 10' front setback, also described in Section 35-310.01, to allow an attached carport to be located 1' from the front property line.

Dominic Silva, Planner, presented background, and staff's recommendation of the variance requests. He indicated 36 notices were mailed, 0 returned in favor, and 1 returned in opposition and no response from the Highland Park Neighborhood Association.

Henry Gomez, applicant stated he was under the impression that if the carport was not attached to the home a permit was not needed. He also stated he did not do the curb cut and the only way he could modify the structure is by doing it himself since he could not afford it any other way.

The Following citizens appeared to speak.

Dina Robinson Ferguson, 14907 Dancer Image, 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-18-072 closed.

Ms. Ojeda made a motion. "Regarding Appeal No A-18-072, a request for 1) a 4'11" variance from the 5' side setback to allow a carport to be 1" from the side property line and 2) a 9' variance from the 10' front setback to allow a carport to be 1' from the front property line, situated at 507 Astor Street, applicant being Henry Gomez.

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

Specifically, we find that:

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

The public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by required setbacks to ensure equal access to air, light, and distance for fire separation, including the protection of vehicles from weather conditions.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.* **Literal enforcement of the ordinance would require that the applicant remove**

that portion of the carport that infringes into the front and side setbacks which would result in unnecessary financial hardship.

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

The spirit of the ordinance is the intent of the Code, which in this case, is the allowance for the protection of vehicles under adequate shelter. The intent of the setback limitation is to prevent fire spread, allow adequate space for maintenance, and encourage proper storm water drainage. By granting the variance, the spirit and intent of the code will be observed.

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” 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 board finds that the carport, as designed, prevents storm water runoff onto adjacent properties and does not alter the essential character of the district.

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

The plight of the owner is due to the compact lots of the district and lack of developable space within the front and side of the property, leaving little room for a carport of adequate size.” Mr. Rodriguez seconded the motion.

AYES: Rodriguez, Cruz, Rogers

NAYS: Ojeda, Teel, Dr. Zottarelli, Martinez, Neff, Britton, Oroian, Kuderer

THE VARIANCE FAILED.

Case Number:	A-18-075
Applicant:	Ricardo Flores
Owner:	Ricardo Flores
Council District:	8
Location:	4343 Shavano Woods Drive
Legal Description:	Lot 19, Block 20, NCB 17017
Zoning:	“R-5 MLOD-1 AHOD ERZD” Residential Single-Family Camp Bullis Military Lighting Overlay Airport Hazard Overlay Edwards Recharge Zone District
Case Manager:	Dominic Silva, Planner

Request

A request for 1) a 3'6" variance, as described in Appendix C, to allow a residential driveway width to be 23'6" wide and 2) a 3' variance from the 5' side setback requirement, as described in Section 35-310.01, to allow a carport to be as close as 2' from the side property line, and 3) a special exception, as described in Section 35-514, to allow an 6'8" tall privacy fence in a portion of the front yard of the property.

Dominic Silva, Planner, presented background, and staff's recommendation of the variance requests. He indicated 33 notices were mailed, 0 returned in favor, and 0 returned in opposition and no response from the Woods of Shavano Neighborhood Association.

Luis Fracos, representative, stated when the applicant hired the first contractor he asked them to get all permits for the job. It wasn't until they were cited did he discover they didn't. Mr. Fracos was recently hired and is now appearing before the Board to get all proper permits and variances and asked for the Boards consideration.

Richard Corrigan, representative, provided legal documents for the Board to review.

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-18-075 closed.

Mr. Oroian made a motion. "Regarding Appeal No A-18-075, a request for a 1) a 3'6" variance to allow a residential driveway width to be 23'6" wide and 2) a 3' variance from the 5' side setback requirement to allow a carport to be as close as 2' from the side property line, situated at 4343 Shavano Woods Drive, applicant being Ricardo Flores.

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

Specifically, we find that:

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

The public interest is defined as the general health, safety, and welfare of the public. In this case, both variances do not harm adjacent property owners as proper storm water management was observed, as well as adequate space for maintenance.

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

Literal enforcement of the ordinance would result in the removal of some portion of the carport and a portion of the drive approach. The owner has taken measures to control

storm water runoff through gutters and staff finds adequate space has been reserved to conduct maintenance without trespass.

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 variances will still provide for a safe development pattern. Both variance 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 “R-5 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.*

Staff finds the structure will not impose any immediate threat of water runoff or fire spread on adjacent properties due to storm water management controls currently installed. The carport is located partially behind a 6’8” privacy fence that is unlikely to alter the essential character of the district in which the property is located.

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

The plight of the owner is due to the irregular configuration of the side property in relation to the principal structure placement and the area in which a carport can fit without encroachment into the side property setback.” Mr. Neff seconded the motion.

AYES: Dr. Zottarelli, Rogers, Teel, Cruz, Britton, Rodriguez, Kuderer

NAYS: Neff, Ojeda, Oroian, Martinez,

THE VARIANCE FAILED

Mr. Kuderer then called for a motion regarding the special exception for the fence.

Mr. Martinez made a motion. “Regarding Appeal No A-18-075, a request for a special exception to allow a 6’8” tall privacy fence in a portion of the front yard of the property, situated at 4343 Shavano Woods Drive, applicant being Ricardo Flores.

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 states the Board of Adjustment can grant a special exception for a fence height modification up to eight feet. The additional fence height is intended to provide safety and security of the applicant's property. If granted, this request would be in harmony with the spirit and purpose of the ordinance.

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

In this case, these criteria are represented by maximum fence heights to protect residential property owners while still promoting a sense of community. A 6'8" tall fence was built along a portion of the front property line to provide additional security for the applicant's property. This is not contrary to the public interest.

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

The fence will create enhanced security for the subject property and is highly unlikely to injure adjacent properties as it has been in place for more than 10 years. Further, the fencing does not violate Clear Vision standards.

- 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 fencing does not detract from the character of the neighborhood. The fencing is in line with other preexisting fencing material and height within the immediate vicinity.

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

The property is located within the "R-5 MLOD-1 AHOD ERZD" Residential Single-Family Camp Bullis Military Lighting Overlay Airport Hazard Overlay Edwards Recharge Zone District and permits the current use. The requested special exception will not weaken the general purpose of the district.

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

THE SPECIAL EXCEPTION IS GRANTED.



Case Number: A-18-077
Applicant: Brown & Ortiz, PC
Owner: Galleria Custom Homes, LLC
Council District: 8
Location: 7010 Bella Rose
Legal Description: Lot 31, Block 24, NCB 18333
Zoning: "R-6 MLOD-1" Residential Single-Family Camp Bullis Military Lighting Overlay District
Case Manager: Debora Gonzalez, Senior Planner

Request

A request for a 15' variance from the 20' rear setback, as described in Section 35-310.01, to allow a new home to be constructed as close to 5' from the rear property line.

Debora Gonzalez, Senior Planner, presented background, and staff's recommendation of the variance requests. She indicated 15 notices were mailed, 0 returned in favor, and 0 returned in opposition and no response from the Friedrich Wilderness Park Neighborhood Association.

Caroline McDonald, representative, gave a brief presentation and spoke of the challenges of the odd shaped property. She then answered all questions and asked for the Boards consideration.

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-18-077 closed.

Mr. Martinez made a motion. "Regarding Appeal No A-18-077, a request for a 15' variance from the 20' rear setback to allow a new home to be constructed as close to 5' from the rear property line, situated at 7010 Bella Rose, applicant being Brown & Ortiz, PC.

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 public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by setbacks to prevent fire spread and to protect adjacent property owners. The new house will encroach into the 20 foot setback by 15 feet. The new house will provide room for maintenance without trespass and will not produce water runoff on the adjacent property. As several residential districts permit as little as a ten feet rear seatback, staff finds the request is not contrary to the public interest, especially considering only one corner of the house is five feet away.

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

Literal enforcement of the ordinance would not allow the owner of the property to build the primary dwelling as proposed. The home would need to be redesigned.

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 requirement, rather than the strict letter of the law. The intent of rear setbacks is to create an open area without crowding of structures and to establish uniform development standards to protect the rights of property owners.

In this case, the rear reduction of the subject property will not disrupt uniformity and will not injure the rights of adjacent property owners, which observes the intent of the code.

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-6 MLOD-1" Residential Single-Family Camp Bullis Military Lighting 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 new structure will not detract from the neighborhood as the issue is related to a uniquely shaped lot. The rear reduction will not produce water runoff on adjacent properties and will not require trespass to maintain the structure.

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 Board finds that the unique circumstance in this case is the uniquely shaped lot which restricts the owner's ability to construct without encroaching into the rear setback.

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

NAYS: None

VARIANCE IS GRANTED.



Case Number: A-18-083
Applicant: Francisco Morales
Owner: Juan M. Aguilera
Council District: 5
Location: 521 North San Dario Street
Legal Description: Lots 28 and 29, Block 10, NCB 8298
Zoning: "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager: Debora Gonzalez, Senior Planner

Request

A request for a 1'6" variance from the 5' side setback, as described in Section 35-310.01, to allow a new residential building and detached accessory dwelling unit to be 3'6" away from the side property line.

Debora Gonzalez, Senior Planner, presented background, and staff's recommendation of the variance requests. She indicated 41 notices were mailed, 0 returned in favor, and 0 returned in opposition and no response from the Loma Vista Neighborhood Association.

Luis Fracos, representative, gave a history on the project and stated the property was purchased in 2017 by Mr. Aguilera who proceeded to repair the foundation but never pulled a permit. After being cited by the City the applicant hired Mr. Fracos to represent and him get in to 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-18-083 closed.

Ms. Cruz made a motion. "Regarding Appeal No A-18-083, a request for a 1'6" variance from the 5' side setback to allow a new residential building and detached accessory dwelling unit to be 3'6" away from the side property line, situated at 521 North San Dario, applicant being Mr. Aguilera.

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 already existing structures are only been rehabilitated 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 structures existing as a primary residence and an accessory dwelling unit, a literal enforcement of the

ordinance would result in unnecessary hardship by requiring the entire structures be moved to meet the setback.

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 variance will not authorize the operation of a use other than those uses specifically authorized in the “R-5 AHOD” Residential Single Family Airport Hazard Overlay District.

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

The variance would not alter the use or character of adjacent conforming property or character of the district.

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

The unique circumstances existing on the property are neither due to the general conditions of the district, nor due to the owner, and is not financial in nature. The character of side yards within the district are predominantly compact, leaving little room for proper building setbacks. When homes in this community were built, only a three foot side setback was required.” Mr. Rodriguez seconded the motion.

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

NAYS: None

VARIANCE IS GRANTED.

Case Number:	A-18-084
Applicant:	Richard and Jeannine Rayfield
Owner:	Richard and Jeannine Rayfield
Council District:	10
Location:	15237 Pebble Falls
Legal Description:	Lot 29, Block 5, NCB 1680
Zoning:	“R-6” Residential Single-Family District
Case Manager:	Dominic Silva, Planner

Request

A request for a 4'11" variance from the 5' side setback, as described in Section 35-370, to allow a shed to be 1" from the side property line.

Dominic Silva, Planner, presented background, and staff's recommendation of the variance requests. He indicated 24 notices were mailed, 4 returned in favor, and 0 returned in opposition and no response from the Oak Hollow Park Neighborhood Association.

Richard and Jeanine Rayfield, applicants stated they bought the property sight unseen online in 2011. The shed has been in its location since 1996. They have worked to add gutters to keep the runoff water on their property. The Rayfields answered all questions and asked for the Boards approval.

The Following citizens appeared to speak.

Chris Wilson, 15421 Pebble Falls, 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-18-084 closed.

Ms. Ojeda made a motion. "Regarding Appeal No A-18-084, a request for a 4'11" variance from the 5' side setback to allow a shed to be 1" from the side property line, situated at 15237 Pebble Falls, applicant being Richard and Jeannine Rayfield.

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

Specifically, we find that:

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

The public interest is defined as the general health, safety, and welfare of the public. In this case, the variance is not contrary to the public interest as the structure has been in place since 1996; adequate storm water runoff prevention measures have been observed utilizing aluminum gutters and downspouts directing runoff away from the adjacent property.

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

Strict enforcement would result in the removal of the structure. As the shed is built between large mature trees and an adjacent property fence line coupled with the substantial size of the shed, moving could potentially be unsafe and result in an unnecessary hardship.

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

The spirit of the ordinance is the intent of the requirement, rather than the strict letter of the law. The intent of setback limitations is to prevent fire spread, allow adequate space for maintenance, and encourage proper storm water drainage. A requirement of the permitting process is to fire rate the material closest to the adjacent property; the shed has remain unchanged since 1996; lastly, storm water drainage prevention controls are currently in place. In this case, the proposed setbacks reduction will not injure the rights of adjacent property owners, which observes the intent of the code.

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-6” Residential Single-Family District.

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

The variance to the shed, which has been in place since 1996, is unlikely to injure the appropriate use of adjacent conforming properties. The shed is located behind a 6’ privacy fence and bounded by large mature trees that obscure view from the 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 Board finds that the unique circumstance existing on the property originated from the previous owner whom built this shed in 1996 with no knowledge of permitting requirements.

**AYES: Teel, Dr. Zottarelli, Cruz, Rogers, Martinez, Neff, Britton, Rodriguez, Kuderer
NAYS: Ojeda, Oroian**

VARIANCE IS GRANTED.



[REDACTED]

Mr. Kuderer made a motion to approve the April 16, 2018 minutes with all members voting in the affirmative.

[REDACTED]

Manager's report: None

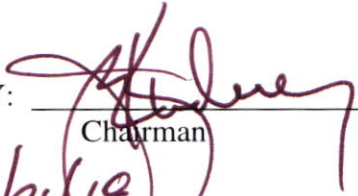
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There being no further discussion, meeting adjourned at 5:55 p.m.

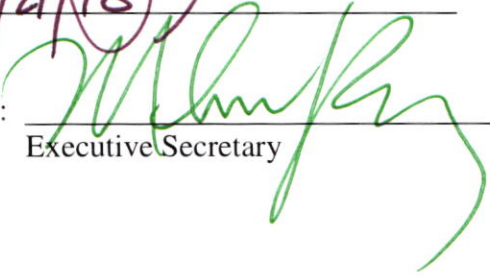
[REDACTED]

May 7, 2018

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APPROVED BY:  OR _____
Chairman Vice-Chair

DATE: 5/21/18

ATTESTED BY:  DATE: 5/22/18
Executive Secretary