

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
May 21, 2018**

DRAFT

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

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.

Saria Stoley, World Wide Languages-Interpreter, present

Item # A-18-025 Has been postponed.

Maria Cruz arrived at 1:05pm

Case Number:	A-18-064
Applicant:	Joe F. Rodriguez
Owner:	Joe F. Rodriguez
Council District:	2
Location:	1452 S. WW White Road
Legal Description:	The West 281.7 Feet of Lot 52, NCB 10755
Zoning:	“C-3” General Commercial District
Case Manager:	Dominic Silva, Planner

Request

A request for a eight foot variance from the 15 foot Type C landscaped buffer yard requirements, as described in Section 35-510, to allow a buffer yard to be as narrow as seven feet.

Dominic Silva, Planner, presented the background information, and staff's recommendations. He indicated 17 notices were mailed, 1 returned in favor, 1 returned in opposition and no response from the Dell Crest Neighborhood Association.

Joe F. Rodriguez, representative stated once they were deep into the project they encountered some problems which would change the whole project, after assessing the problem they decided to ask for the variance which allowed them to continue the project with minimal changes with no alcohol sales. Mr. Rodriguez then answered all questions and respectfully asked for the Boards approval.

Rodolfo Chavez, Landscape Architect gave details on the landscape aspect of the project.

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-18-064 closed.

The Following Citizens appeared to speak.

Celia Gonzalez, PO BOX 190185 SA TX 78220, spoke in favor.

A motion was made by Mr. Neff. "Regarding Appeal No A-18-064, a request for an eight foot variance from the 15 foot Type C landscape buffer yard requirements to allow a buffer yard to be as narrow as seven feet, situated at 1452 S. WW White Road, applicant being Joe F. Rodriguez.

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 seven foot buffer yard is not contrary to public interest as it does not negatively impact any surrounding properties or the general public. As of now, the property has no buffer yards established, so any new development will be beneficial and a net improvement to the surrounding district.

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 now abandoned property as proposed due to the narrow configuration of the lot and establishing new buffer yards 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 buffer yard will adhere to the spirit of the ordinance and substantial justice will be done by implementing a seven foot buffer yard where none exists currently in order to rehabilitate the property.

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 “C-3” General Commercial 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 introduction of a seven foot buffer would only 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 buying into a vacant property that had nonexistent buffer yards to begin with.” The Motion was seconded by Ms. Ojeda.

AYES: Neff, Ojeda, Teel, Klein, Cruz, Rogers, Martinez, Britton, Oroian, Kuderer
NAYS: None

THE VARIANCE IS GRANTED.

Case Number:	A-18-078
Applicant:	Graystreet 1611 Broadway, LP
Owner:	Graystreet 1611 Broadway, LP and Reynaldo Diaz, Jr.
Council District:	1
Location:	1603, 1611, and 1615 Broadway
Legal Description:	LOTS 6, 7, 8, 9, and 10, Block 18, NCB 964
Zoning:	“IDZ DN RIO-2 UC-2 AHOD” Infill Development Zone Development Node River Improvement Overlay Urban Corridor Airport Hazard Overlay District
Case Manager:	Debora Gonzalez, Senior Planner

Request

A request for 1) a 5-story variance and an 80-foot variance from the RIO-2 and Development Node regulations to allow for a structure to be 20 stories and 260 feet in height, as described in Sections 35-338(b)(3), 35-674.01 (c)(4) and Table 674-2 and 2) a 60-foot variance from the AHOD regulations, as described in Section 35-331, to allow for a structure to be 20 stories and 260 feet in height.

Debora Gonzalez, Senior Planner, presented the background information and staff's recommendation of the variance. She indicated 25 notices were mailed, 0 returned in favor, and 0 returned in opposition with the Tobin Hills Community and Government Hill Neighborhood Associations.

Corey Edwards, Office Historic Preservation, answered all questions from the board.

Daniel Ortiz, 112 E. Pecan, gave the board a detailed presentation on the project. He discussed parking and all amenities the project will provide and highlighted all its hardships from parking to the water table below the project. He requested approval for the variance and all the events that made this proposal possible.

Rusty Yeager, 1118 Cedar Valley, stated a traffic study was done which showed enough parking would be provided, answered questions regarding traffic which showed enough parking would be provided.

The Following Citizens appeared to speak.

Diana Keller, 1627 Broadway, spoke in favor.

Brad Kaufman, 223 Brackenridge, spoke in favor.

Dawn Hansen, 1017 W. Craig Place, spoke in favor.

Sofie Torres, 200, E. Grayson, spoke in favor.

Danny Chavez, 831 S. Flores, spoke in favor.

Nicolas Rivard, 605 Nolan Street, 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-18-078 closed.

MOTION

A motion was made by Mr. Teel. "Regarding Appeal No A-18-078, a request for 1) a 5-story variance and an 80-foot variance from the RIO-2 and Development Node regulations to allow for a structure to be 20 stories and 260 feet in height and 2) a 60-foot variance from the AHOD regulations to allow for a structure to be 20 stories and 260 feet in height, situated at 1603, 1611, and 1615 Broadway, applicant being Gray Street 1611 Broadway, LP.

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 height limitations to ensure that future development is compatible within the context that it is placed. The owner of the

property is trying to develop under-utilized tracts for the construction of a mixed-use development with structured parking. The proposed 20-story mixed-use development is surrounded by mixed uses, office space under construction to the north, the interstate highway to the south, and The Pearl to the west. The Board finds that permitting the requested height is warranted and is not contrary to the public interest.

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

Literal enforcement of the ordinance would limit the structure to 15 stories and 180 feet in height. The project as an infill development project presents challenges in its design configuration and location at the intersection of two major highways. Additionally, in that the project will encompass most of the block, there is no abutting property to be directly harmed by the proposal. Any surrounding development will be buffered by, at a minimum, the entire right-of-way (ROW); nearly 80 feet of separation, property line to property line.

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. The intent of the code is to ensure that the scale of new development within is appropriately scaled and compatible with specific design and height criteria. The applicant is not seeking variance to the required design aspects listed in the code, only seeking the additional height. Because there are no properties directly abutting this project, and because of the nature of land use surrounding the subject property, staff finds that the request for additional height observes the spirit of the ordinance.*
4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the zoning district in which the variance is located.*

The requested variance will not permit a use not authorized within the “IDZ DN RIO-2 UC-2 AHOD” Infill Development Zone Development Node River Improvement Overlay Urban Corridor Airport Hazard Overlay District.

5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*
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 present in this case is the scale of proposed development. Because the most of the block is included within the project area, staff finds that the request for additional height is warranted.” The motion was seconded by Mr. Neff.

AYES: Teel, Neff, Klein, Cruz, Rogers, Martinez, Britton, Oroian, Kuderer

NAYS: Ojeda

THE VARIANCE IS GRANTED.

The Board of Adjustment convened for a break at 2:12pm and reconvened at 2:25pm.

Case Number: A-18-096
Applicant: Brown & Ortiz, P.C.
Owner: The Trails RV Resort Repair Shop & Parts Sales, LLC
Council District: 3
Location: 3600 Orkney Avenue
Legal Description: Lot 1, Block 1, NCB 10879 Exc N 50X50 FT & Exc NE Irr Tri, P-119 & P-119A
Zoning: "I-1 AHOD" General Industrial Airport Hazard Overlay District
Case Manager: Debora Gonzalez, Senior Planner

Request

A request for 1) a 15' variance from the 30' side setback, as described in Section 35-310.01, to allow a 15' side setback, and 2) a 15' variance from the 25' buffer yard, as described in Section 35-510, Table 510-1, to allow a buffer yard to be 10'.

Debora Gonzalez, Senior Planner presented the background information and staff's recommendation of the variance. She indicated 87 notices were mailed, 0 returned in favor, and 1 returned in opposition with no response from the Highland Forest Neighborhood Association.

James McKnight, 112 E. Pecan, representative gave a presentation regarding the property. He went into great detail regarding the specifics the different stages of the project. They will also work on beautifying with landscaping. He also stated they will work on fencing to fit the community. Mr. McKnight then respectfully asked for the Boards approval.

The following citizens appeared to speak.

Terrie Untalem, 7415 Shetland, requested more information in order to make a decision either for or against.

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-18-096 closed.

Ms. Ojeda made a motion. "Regarding Appeal No A-18-096, a request for 1) a 15' variance from the 30' side setback to allow a 15' side setback, and 2) a 15' variance from the 25' buffer yard to allow a buffer yard to be 10', situated at 3600 Orkney Avenue, 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 15 foot side setback and the 10 foot buffer yard are not contrary to public interest as they do not negatively impact any surrounding properties or the general public. The property does not currently benefit from any buffer yard and even the reduced buffer yard proposed by the applicant will enhance the area. The Board finds that 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 of the ordinance would result in unnecessary hardship by requiring the entire project to be redesigned to meet the required setbacks and buffer yard requirements. Enforcing the full requirement removes developable space which may leave the property with insufficient space to develop the proposed commercial uses.

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 reduced buffer yard and setback requirement will be maintained and will also improve the existing property appearance by introducing design elements that the property does not currently provide.

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 "I-1 AHOD" General Industrial 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.*

Although the applicant is seeking to reduce the buffer yard and setback required by the code, the provision of a landscape buffer yard will still enhance the community.

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 unique lot shape which restricts the owner's ability to redevelop without reducing the side setback and the buffer yard. The property is narrow and warrants some relief to allow for development." Mr. Martinez seconded the motion.

Mr. Oroian made an amendment for 1) a 15' variance from the 30' side setback to allow a 15' side setback, in between Blythe Avenue and Copinsay Avenue and 2) a 15' variance from the 25' buffer yard to allow a buffer yard to be 10' North of Copinsay Avenue. Ms. Ojeda Accepted the amendment a voice vote was taken with only **Ms. Rogers** voting against. Amendment passes. **Mr. Kuderer then called for the main motion.**

AYES: Ojeda, Martinez, Teel, Cruz, Klein, Rogers, Britton, Neff, Oroian, Kuderer
NAYS: None

THE VARIANCE IS GRANTED.

Case Number: A-18-091
Applicant: Esteban Granados
Owner: Esteban Granados
Council District: 5
Location: 309 Landa Avenue
Legal Description: Lot 30 & 31, Block 6, NCB 8263
Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager: Debora Gonzalez, Senior Planner

Request

A request for 1) 4'11" variance from the 5' side setback, as described in Section 35-370, to allow a carport to be 1" from the side property line, and 2) a special exception to allow a 7' tall open screen fence in the front yard, as described in Section 35-514.

Mr. Martinez made a motion to continue to item A-18-091 to June 18th and Mr. Oroian seconded the motion a voice vote was taken and passed unanimously.

Case Number: A-18-087
Applicant: Rosa Carrillo
Owner: Rosa Carrillo
Council District: 1
Location: 215 Trudell
Legal Description: Lot 42, Block 4, NCB 10991
Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager: Dominic Silva, Planner

Request

A request for a 188 square foot variance from the maximum 412 square foot maximum accessory dwelling unit size, as described in Section 35-371(b)(6), to allow a 600 square foot accessory detached dwelling unit.

Dominic Silva, Planner, presented background, and staff's recommendation of the variance requests. She indicated 32 notices were mailed, 0 returned in favor, and 0 returned in opposition and no response from the Dellview Area Neighborhood Association.

Rosa Carrillo, 215 Trudell Drive, **requested Spanish interpretation services from Saria Stoley**, stated she wishes to convert the garage into a small dwelling for her parents when they come to visit. It would be one bedroom one bath and a small kitchen and asked 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-18-087 closed.

Mr. Neff made a motion. "Regarding Appeal No A-18-087, a request for a 188 square foot variance from the maximum 412 square foot maximum accessory dwelling unit size to allow a 600 square foot accessory detached dwelling unit, situated at 215 Trudell Drive, applicant being Rosa Carrillo.

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.*

Given the location of the accessory detached dwelling unit, the variance is highly unlikely to be noticed from the public right-of-way. Further, all setbacks have been met. The Board finds the variance is not contrary to the public interest.

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

Although the accessory detached dwelling unit is set well within the rear property out of view of the public right-of-way and within the required setbacks, literal enforcement of the ordinance would result in the owner being unable to continue development of the project.

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 accessory dwelling is not overwhelming in comparison to the principal structure and is situated outside the setbacks of the rear property.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the zoning district in which the variance is located.*

The requested variance will not permit a use not authorized within 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 size of the accessory dwelling unit is proportional with the size of the principal dwelling and the size of the lot. Further, the accessory dwelling unit will comply with the one bedroom one bath requirement of the code. 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 unique circumstance present in the case is that the original structure is being renovated from a garage to a dwelling unit, but not enlarged. It is difficult to establish how the request could harm adjacent owners or detract from the character of the community.”
Mr. Martinez seconded the motion.

AYES: Neff, Martinez, Teel, Cruz, Klein, Rogers, Britton, Ojeda, Oroian, Kuderer

NAYS: None

THE VARIANCE IS GRANTED

Case Number:	A-18-086
Applicant:	Amalia Berumen
Owner:	Amalia Berumen
Council District:	1
Location:	2016 Lyons Street
Legal Description:	Lot 14, Block 7, NCB 2143
Zoning:	“MF-33 AHOD” Multi-Family Airport Hazard Overlay District
Case Manager:	Dominic Silva, Planner

Request

A request for a special exception, as described in Section 35-514, to allow a 5’5” tall privacy fence along a portion of the front property line.

Dominic Silva, Planner, presented background, and staff's recommendation of the variance requests. He indicated 40 notices were mailed, 1 returned in favor, and 0 returned in opposition and no response from the Prospect Hill/West End Hope in Action Neighborhood Association with no response.

Maria Berumen/Paul Myers, applicants stated they only want to replace the fence in the same footprint of the original fence and we unaware they needed a permit.

After further discussion the applicants requested a postponement. No Vote needed.

Mr. Teel left the meeting at 3:31pm

Case Number:	A-18-090
Applicant:	Oscar Hernandez
Owner:	Oscar Hernandez
Council District:	1
Location:	615 Elm Street and 627 Elm Street
Legal Description:	Lots 8 and 9, Block 34, NCB 541
Zoning:	"FBZD T4-2 HS AHOD" Form Based Zone Historic Significant Airport Hazard Overlay District and "FBZD T4-2 AHOD" Form Based Zone Airport Hazard Overlay District
Case Manager:	Dominic Silva, Planner

Request

A request for a special exception from the Form Based Zone District design requirements, as described in Section 35-209, to allow a 6' predominantly open fence along the side and front property line.

Dominic Silva, Planner, presented background, and staff's recommendation of the variance requests. He indicated 15 notices were mailed, 0 returned in favor, and 0 returned in opposition and no response from the Downtown Residents Association.

Oscar Hernandez, 220 Blanco Rd., representative, stated they need to place the existing fence.

Carol Brione, 110 McCollough, applicant stated they wanted to replace the fence since it was in disrepair and want to match the upgraded fences in the area.

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-18-090 closed.

Mr. Oroian made a motion. "Regarding Appeal No A-18-090, a request a special exception from the Form Based Zone District design requirement: to allow a 6' predominantly open fence along

the side and front property line, situated 615 Elm Street and 627 Elm Street, applicant being Oscar Hernandez.

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 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. A 6' tall fence is proposed along a portion of the front and side property line to provide additional security for the 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. 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 "FBZD T4-2 HS AHOD" Form Based Zone Historic Significant Airport Hazard Overlay District and "FBZD T4-2 AHOD" Form Based Zone Airport Hazard Overlay District and permits the current commercial use. The requested special exception will not weaken the general purpose of the district." Ms. Ojeda seconded the motion.*

AYES: Oroian, Ojeda, Cruz, Klein, Rogers, Martinez Neff, Britton, Kuderer
NAYS: None

THE SPECIAL EXCEPTION IS GRANTED



Case Number: A-18-093
Applicant: Rodolfo Barron
Owner: Rodolfo Barron
Council District: 7
Location: 7214 Cool Creek Drive
Legal Description: Lot 32, Block 2, NCB 18648
Zoning: "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager: Dominic Silva, Planner

Request

A request for 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.

Mr. Martinez made a motion to continue item to A-18-093 to June 18, 2018, Mr. Neff seconded the motion a voice vote was taken and passed unanimously.

CONTINUANCE IS GRANTED

Case Number: A-18-089
Applicant: Robert Belden
Owner: Joseph Gamez
Council District: 1
Location: 170 Hermine Boulevard
Legal Description: Lot 5 & 6, Block 13, NCB 9007
Zoning: "R-4 H AHOD" Residential Single-Family Olmos Park Terrace Historic Airport Hazard Overlay District
Case Manager: Debora Gonzalez, Senior Planner

Request

A request for 4' variance from the 5' side setback, as described in Section 35-310.01, to allow an addition to be 1' from the side property line.

Debora Gonzalez, Senior Planner, presented background, and staff's recommendation of the variance requests. She indicated 22 notices were mailed, 0 returned in favor, and 0 returned in opposition and no response from the Olmos Park Terrace Neighborhood Association.

Robert Beldon, 303 W. Cevallos, representative stated he was hired when the project was already in progress and helped the owner get a certificate of appropriateness and later found they needed this variance to continue their work.

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-18-089 closed.

Mr. Martinez made a motion. “Regarding Appeal No A-18-089 a request for 4’ variance from the 5’ side setback to allow an addition to be 1’ from the side property line situated 170 Hermine Boulevard, applicant being Robert Belden.

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 existing structure is 1 foot from the side property line and the addition aligns with the existing footprint. The Board finds that the request is not contrary to the public interest.

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

A literal enforcement of the ordinance would result in unnecessary hardship by requiring the entire structure, including the addition, 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 side setbacks is to create an open area without crowding of structures and to establish uniform development standards to protect the rights of property owners. The addition will not significantly disrupt uniformity and will not injure the rights of adjacent property owners.

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 H AHOD” Residential Single-Family Olmos Park Terrace 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.*

The addition will not detract from the neighborhood as the addition will not deviate from the existing side setback and, further, the rear addition is unlikely to go noticed. Specifically, the variance would not place the structures out of character within the community.

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 dwelling's original layout on the lot which restricts the owner's ability to construct any addition without encroaching into the side setback." Mr. Britton seconded the motion.

**AYES: Martinez, Britton, Oroian, Ojeda, Cruz, Klein, Rogers, Neff, Kuderer
NAYS: None**

THE SPECIAL EXCEPTION IS GRANTED

Mr. Kuderer made a motion to approve the May 7, 2018 minutes with all members voting in the affirmative.

Manager's report: None

There being no further discussion, meeting adjourned at 4:00 p.m.

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary