

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
June 18, 2018**

DRAFT

Members Present:	Dr. Zottarelli Alan Neff Denise Ojeda George Britton Jr Maria Cruz Jeff Finlay Mary Rogers Donald Oroian John Kuderer Roger Martinez Henry Rodriguez Jay C. Gragg	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, 234 W. Sunset, World Wide Languages-Interpreter, present

Mr. Martinez arrived at 1:09pm.

Case # A-18-110 has been postponed.

Mr. Neff made a motion to continue item #A-18-093 to July 2, 2018, Mr. Martinez seconded the motion a voice was taken and passed unanimously.

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.

Debora Gonzalez, Senior Planner presented the background information and staff's recommendation of the variance. She indicated 20 notices were mailed, 1 returned in favor, and 0 returned in opposition with no response from the Prospect Hill Neighborhood Association.

Esteban Granados, applicant stated his contractor told him he would not have a problem with the fence because his neighbors had similar fences. In addition he explained he needed the carport to protect his family and property from the weather. Mr. Granados also submitted a letter from his neighbor in support and stated his home is made of cinder blocks cement and metal and is not a fire risk.

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-18-091 closed.

Mr. Martinez made a motion. "Regarding Appeal No A-18-091, a request for a 4'11" variance from the 5' side setback to allow a carport to be 1" from the side property line, situated at 309 Landa Avenue, applicant being Esteban Granados.

I move that the Board of Adjustment grant the applicant's request for 3 foot variance to allow for a 2 foot clearance between the property line 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 2" side setback is not contrary to public interest as it does not negatively impact any surrounding properties or the general public. 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*

The special condition present in this case is that the reduction would only be applicable along one side of the property line, which still provides ample room for maintenance.

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 provides 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.*

The 3” side setback variance is highly unlikely to injure adjacent property owners as these lots are similar to other lots in the subdivision. The side setback provides adequate room for maintenance without trespass and will not create any health or safety hazards.

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 location of the existing house restricts the owner’s ability to construct a carport without encroaching into the side setback.” Mr. Neff seconded the motion.

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

NAYS: None

THE VARIANCE IS GRANTED

Mr. Neff made a motion. “Regarding Appeal No A-18-091, a request for a special exception to allow a 7’ tall predominately open fence in the front yard, situated at 309 Landa Avenue, applicant being Esteban Granados.

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 request for a 7’ tall wrought iron fence in the front yard is in harmony with the spirit and purpose of the chapter as the fence is intended to provide safety, security, and privacy of the applicant. The front yard fence has existed since 2017.

- B. *The public welfare and convenience will be substantially served.*
Allowing the property owner to keep a 7' tall wrought iron fence in the front will help create a private and safe environment. Therefore, the public welfare and convenience will be substantially served.
- C. *The neighboring property will not be substantially injured by such proposed use.*
Granting the requested special exception will not substantially injure the neighboring properties as the fence will enhance security for the subject property and is highly unlikely to injure adjacent properties. Further, the fence does not interfere with the Clear Vision Field.
- 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 7' tall wrought iron fence in the front yard would not significantly alter the overall appearance of the district and would be able to provide added security and protection for the property owner.
- E. *The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district.*
The purpose of the fencing standards is to protect the health, safety, and general welfare of the public. The special exception request is to allow a 7' tall wrought iron fence in the front yard in order to add security for the owner. Therefore, the requested special exception will not weaken the general purpose of the district." Mr. Rodriguez seconded the motion.

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

NAYS: Martinez

THE SPECIAL EXCEPTION IS GRANTED

Case Number:	A-18-104
Applicant:	Wes Putman/Budget Signs
Owner:	Jack Spirit
Council District:	7
Location:	8425 Bandera Road
Legal Description:	Lots 3, 4, 6, 8, Block 1, NCB 17929
Zoning:	"C-3 AHOD" General Commercial Airport Hazard Overlay Dist.
Case Manager:	Debora Gonzalez, Senior Planner

Request

A 69 square foot variance from the 500 square foot maximum multi-tenant sign area, as stated in Chapter 28, Sec 28-45, to allow a multi-tenant sign to be 569 square feet in size.

Debora Gonzalez, Senior Planner presented the background information and staff's recommendation of the variance. She indicated 68 notices were mailed, 0 returned in favor, and 0 returned in opposition with no neighborhood association.

Wes Putman, applicant stated the property has more tenants than it has space on the sign and in order to accommodate all the tenants a portion of the sign will be converted to a digital Sign. He submitted photos of the minimal change to the sign.

Andrew Perez, City of San Antonio Chief Sign Inspector, explained the need and benefits of the digital sign and answered all of the Boards Questions.

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-18-104 closed.

Mr. Martinez made a motion. "Regarding Appeal No A-18-104, a request for a 69 square foot variance from the 500 square foot maximum multi-tenant sign area to allow a multi-tenant sign to be 569 square feet in size, located in the 8425 Bandera Road, applicant being Wes Putman.

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 necessary because strict enforcement of this article prohibits any reasonable opportunity to provide adequate signs on the site, considering the unique features of a site such as its dimensions, landscaping, or topography; or*
2. *A denial of the variance would probably cause a cessation of legitimate, longstanding active commercial use of the property; and.*

The proposed multi-tenant sign will reduce the existing 630 square foot sign. The applicant intends to remove two cabinets to make space for one electronic message board which is needed to offer signage for the tenants in the shopping center.

3. *After seeking one or more of the findings set forth in subparagraphs (1) and (2), the Board finds that:*
 - A. *Granting the variance does not provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.*

The request is not out of character with the surrounding commercial properties and the sign will not block any existing business. Similar signs within the area one located at 8315 Bandera Road, 8428 Bandera Road, and 8280 Bandera Road.

- B. *Granting the variance will not have a substantially adverse impact on neighboring properties.*

The proposed variance will not have an adverse impact on neighboring properties as surrounding properties have similar signage. Further, the applicant is seeking only an additional 69 square feet, which deviates from the code by only 14%.

C. Granting the variance will not substantially conflict with the stated purposes of this article.

The requested variance does not conflict with the stated purpose of the chapter. The requested square footage provides reasonable limits on signage to help preserve economic cornerstones. Further, the request will not create traffic hazards by confusing or distracting motorists, or by impairing the driver's ability to see pedestrians, obstacles, or other vehicles, or to read traffic signs.” Mr. Neff seconded the motion.

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

NAYS: None

THE VARIANCE IS GRANTED

Case Number:	A-18-106
Applicant:	Alejandra Vazquez
Owner:	Alejandra Vazquez
Council District:	1
Location:	5138 Blanco Road
Legal	Lot 31, NCB 11693
Description:	
Zoning:	“C-2 AHOD” Commercial Airport Hazard Overlay District
Case Manager:	Dominic Silva, Planner

Request

A request for a parking adjustment, as described in Section 35-526, to decrease the minimum parking from 33 parking spaces to 10 parking spaces.

Dominic Silva, Planner, presented background, and staff’s recommendation of the variance requests. He indicated 13 notices were mailed, 1 returned in favor, and 0 returned in opposition and no response from the North Shearer Hills Neighborhood Association.

Richard Gallegos, representative, 513 Blanco Road stated they are not going to keep the drive thru and only have one entrance and exit and wanted to maximize the parking spaces. Mr. Gallegos answered all questions 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-18-106 closed.

Mr. Oroian made a motion. “Regarding Appeal No A-18-106, a request for a parking adjustment to decrease the minimum parking from 33 parking spaces to 10 parking spaces, situated at 5138 Blanco Road, applicant being Alejandra Vazquez.

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:

The proposed parking adjustment for a restaurant will serve the public well by decreasing unnecessary parking onsite and increasing useable interior space for storage and kitchen use.” Mr. Neff seconded the motion.

AYES: Rogers, Rodriguez

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

THE VARIANCE FAILED

Case Number:	A-18-086
Applicant:	Amalia Berumen
Owner:	Amalia Berumen
Council District:	1
Location:	2016 and 2018 Lyons Street
Legal Description:	Lots 12-14, 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 the front yard.

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

Paul Myers and Maria Berumen, representatives, stated the fence is needed for safety from Gangs and illegal activity 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-18-086 closed.

Mr. Rodriguez made a motion. “Regarding Appeal No. A-18-086, a request a special exception to allow a 5’5” tall solid screen fence along the front yard, situated 2016 and 2018 Lyons Street, applicant being Amalia Berumen.

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:

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.

- A. *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 5’5” tall solid screen fence was built along the front property line to provide additional security for the property. This is not contrary to the public interest.***
- B. *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.***
- C. *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.***
- D. *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 “MF-33 AHOD” Multi-Family Airport Hazard Overlay District and permits the current use. The requested special exception will not weaken the general purpose of the district.”***
Mr. Martinez seconded the motion.

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

NAYS: None

THE SPECIAL EXCEPTION IS GRANTED

The Board of Adjustment convened at 2:35pm for a break and reconvened at 2:44pm.

Case Number: A-18-109
Applicant: John Voss
Owner: John Voss
Council District: 8
Location: 4602 Shavano Birch
Legal Description: Lot 1, Block 8, NCB 18916
Zoning: "R-4 MLOD-1 ERZD" Residential Single-Family Camp Bullis
Military Lighting Overlay Edwards Recharge Zone District
Case Manager: Dominic Silva, Planner

Request

A request for a 14'3" variance from the 20' garage setback, as described in Section 35-516, to allow a garage to be 5'9" from the property line.

Dominic Silva, Planner, presented background, and staff's recommendation of the variance requests. He indicated 25 notices were mailed, 1 returned in favor, and 1 returned in opposition (anonymous) with no response from the Shavano Ridge Neighborhood Association.

John Voss, applicant stated he recently purchased a new Ford F150 which does not fit in his garage. He also stated he has many hobbies and needs more room to store his toys in his garage but needs to extend it 9 feet and asked the Board for their 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-18-109 closed.

Mr. Oroian made a motion. "Regarding Appeal No. A-18-109, a request for a 14'3" variance from the 20' garage setback to allow a garage to be 5'9" from the property line, situated at 4602 Shavano Birch, applicant being John Voss.

I move that the Board of Adjustment grant a **12 foot variance from the 20 foot setback**. 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 extension to the garage is not contrary to public interest as it does not negatively impact any surrounding properties or the general public. The garage will be surrounded by a 6' privacy fence on either side and is not noticeable to the passersby until directly in front of the structure. It is also covered from view by a large heritage tree.

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

As the property was built in 1994, prior to the 2001 Unified Development Code mandated a 20' setback from the property line, the applicant's vehicle cannot be parked on the driveway without partially extending beyond the property line. This is a common theme throughout the community.

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 proposed garage extension is not overwhelming in size compared to the principal structure and will allow the owner to store the vehicle inside the garage instead of protruding beyond the property line.

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 "R-4 MLOD-1 ERZD" Residential Single-Family Camp Bullis Military Lighting Overlay Edwards Recharge Zone District.

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

The property is located in a district characterized by detached garages, thus an extension of the current garage to store a vehicle that is currently unable to park in the driveway without protruding beyond the property line will not injure the appropriate use of adjacent conforming properties or alter the 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 variance being sought is due to the property having been built in 1994 before adoption of the 2001 Unified Development Code mandating a 20' distance from the property line. Currently, the garage entrance to property line measures 15'4", leaving any vehicle parked on the driveway extended beyond the property line." Mr. Martinez seconded the motion.

Mr. Martinez made an amendment to raise it from a 12 foot variance to a 14 foot variance with Ms. Rogers seconding the amendment. Mr. Oroian did not accept the motion. A voice vote was taken and passed 9-2. Mr. Kuderer then called for the amended motion vote.

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

NAYS: Ojeda, Oroian

AMENDMENT MOTION PASSES

Mr. Kuderer called for the Main Motion vote.

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

NAYS: Ojeda, Oroian

THE VARIANCE IS GRANTED

Case Number: A-18-105
Applicant: Cotton Estes
Owner: Cotton Estes
Council District: 2
Location: 308 South Mesquite Street
Legal Description: The North 40.65 Feet of Lot 9, Block 1, NCB 609
Zoning: "RM-4 AHOD" Residential Mixed Airport Hazard Overlay District
Case Manager: Debora Gonzalez, Senior Planner

Request

A request for 1) a 15' variance from the 20' rear setback, as described in Section 35-310.01, to allow an addition to be 5' from the rear property line and 2) a 4'1" variance from the 5' side setback, as described in Section 35-310.01, to allow an in-line addition to be 11" from the side property line.

Debora Gonzalez, Senior Planner, presented background, and staff's recommendation of the variance requests. He indicated 32 notices were mailed, 1 returned in favor, and 0 returned in opposition and no response from Alamo Heights Neighborhood Association.

Cotton Estes, applicant stated they wished to rebuild the home to its original historical state and add some space to rent and for her parents to live in the future. She answered all the Boards questions and asked for their approval.

The following citizens appeared to speak.

Barbara McDonald, 102 Kansas St. 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-18-105 closed.

Mr. Neff made a motion. "Regarding Appeal No A-18-105 a request for 1) a 15' variance from the 20' rear setback to allow an addition to be 5' from the rear property line and 2) a 4'1" variance from the 5' side setback to allow an in-line addition to be 11" from the side property line, situated at 308 South Mesquite Street, applicant being Cotton Estes.

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 11" from the side property line and the addition aligns with the existing footprint. The Board finds the request is not contrary to the public interest.

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

The existing structure footprint is very small and additional living space is required to make this house habitable. According to the applicant, the house has been vacant since 2015 when the previous addition was torn down. A literal enforcement of the ordinance would render the property nearly undevelopable. The Board finds that relief is warranted.

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

The special condition in this case is that the current home is only 550 square feet in living area and the applicant is seeking to add 120 square feet of living space and provide a 5 foot rear setback. As the applicant is not asking for the complete elimination of the rear setback. The Board finds that a literal enforcement of the ordinance would result in unnecessary hardship.

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 AHOD" Residential Mixed Airport Hazard Overlay District.

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

The 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. Many homes within this community were built prior to the establishment of required setbacks.

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 original dwelling layout on the lot which restricts the owner's ability to construct any addition without encroaching into the side and rear setbacks. This issue is not merely financial in nature." Mr. Martinez seconded the motion.

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

NAYS: None

THE VARIANCE IS GRANTED

Case Number:	A-18-108
Applicant:	Roberto Garza
Owner:	Roberto Garza
Council District:	2
Location:	427 Natalen Avenue
Legal Description:	Lot 82 and the West 12.5 Feet of Lot 81 and the East 22.5 Feet of Lot 83, Block 3, NCB 6781
Zoning:	"MF-33 NCD-6 AHOD" Multi-Family Mahncke Park Neighborhood Conservation Airport Hazard Overlay District
Case Manager:	Debora Gonzalez, Senior Planner

Request

A request for 1) a variance from the Mahncke Park Neighborhood Conservation design requirement the requires a garage to be located behind the principal structure to allow a 2-car garage located on the front façade of the structures and 2) a variance from the Mahncke Park Neighborhood Conservation District design requirements that allow only one curb cut per property to allow for two curb cuts.

Debora Gonzalez, Senior Planner, presented background, and staff's recommendation of the variance requests. He indicated 34 notices were mailed, 0 returned in favor, and 0 returned in opposition and no Mahnke Park Neighborhood Association is opposed.

Jorge De la Vega, representative stated he was representing the owner and wanted to mention that his client is not Imagine Homes like the homeowners association mentions. He gave a brief history of the property and trees. He explained his reasons for the curb cuts and parking situation. He spoke of alternate designs and answered the Boards questions.

The following citizens appeared to speak.

Morgan Penix, 230 Allensworth, spoke in opposition.

Connie Shipley, 138 Funston Place, 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-18-108 closed.

Mr. Neff made a motion. “Regarding Appeal No A-18-108, a request for a **variance from the Mahncke Park Neighborhood Conservation design requirement the requires a garage to be located behind the principal structure to allow a 2-car garage located on the front façade of the structures** situated at 427 Natalen Avenue, applicant being Roberto Garza.

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:

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

The applicant is requesting two garages to be located on the front façade of the structures and an additional curb cut. These variances are not contrary to public interest as they do not negatively impact 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 owner to build the proposed project as designed. Approval of the requested variances would mirror the requirements of the NCD, or at least the intent of them.

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 NCD is to protect the integrity of the neighborhood. The requested variances are highly unlikely to injure adjacent properties and are unlikely to detract from the character of the community.

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

The variance will not authorize the operation of a use other than those uses specifically authorized in the “MF-33 NCD-6 AHOD” Multi-Family Mahncke Park Neighborhood Conservation Airport Hazard Overlay District.

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

These requests would not injure the rights of the neighboring properties as they do not detract from the essential character of 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 issues faced by the applicant are not merely financial in nature. The applicant seeks to vary from specific standards to allow for the construction, as proposed.” Mr. Martinez seconded the motion.

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

THE VARIANCE FAILED

Mr. Neff made a motion. “Regarding Appeal No A-18-108, a request for a **variance from the Mahncke Park Neighborhood Conservation District design requirements that allow only one curb cut per property to allow for two curb cuts**, situated at 427 Natalen Avenue, applicant being Roberto Garza.

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:

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

The applicant is requesting two garages to be located on the front façade of the structures and an additional curb cut. These variances are not contrary to public interest as they do not negatively impact 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 owner to build the proposed project as designed. Approval of the requested variances would mirror the requirements of the NCD, or at least the intent of them.

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 NCD is to protect the integrity of the neighborhood. The requested variances are highly unlikely to injure adjacent properties and are unlikely to detract from the character of the community.

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

The variance will not authorize the operation of a use other than those uses specifically authorized in the “MF-33 NCD-6 AHOD” Multi-Family Mahncke Park Neighborhood Conservation Airport Hazard Overlay District.

5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*
These requests would not injure the rights of the neighboring properties as they do not detract from the essential character of 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 issues faced by the applicant are not merely financial in nature. The applicant seeks to vary from specific standards to allow for the construction, as proposed.”

The motion was seconded by Mr. Martinez.

AYES: Cruz, Britton, Rodriguez, Ojeda

NAYS: Neff, Martinez, Finlay, Dr. Zotarelli, Rogers, Oroian, Kuderer

THE VARIANCE FAILED

Mr. Kuderer made a motion to approve the June 4, 2018 minutes with all members voting in the affirmative.

Manager's report:

Reminder of the July 2nd Short Term Rental discussion

Reminder of the July 16th Work session

Ms. Ojeda voiced concerns regarding Board etiquette

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

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary