BOARD OF ADJUSTMENT
OFFICIAL MINUTES
January 8, 2018

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

Call to Order

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

Ms. Rogers, called the meeting to order and called roll of the applicants for each case.

Herman Perez, World Wide Languages-Interpreter, present.

Item #A-18-018 has been postponed

Item #1: Consideration, discussion and possible action on proposed amendments to Chapter 35 in response to a council Consideration Request regarding short term rentals.

Michael Dice: Development Services Policy Administrator gave a presentation explaining the changes in short term rentals and what is relevant and in keeping regarding the Unified Development Code and rules on a State level.

The following Citizen appeared to speak.

John Kowut - spoke in opposition.
Robert N. Ray - spoke in opposition.
Margaret Leeds – spoke in opposition.
Roselyn Cogburn – spoke in opposition.
Jack M. Finger – spoke in opposition.
Cosima Colvin – spoke in favor.

Charlette Keer Jorgensen – spoke in favor.
Esther Ponce – spoke in favor.
Cullen Jones – 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 discussion closed.

Mr. Dice responded to questions from the Board and clarified specific points of his presentation.

MOTION
A motion was made by **Mr. Martinez. "I propose the Board of Adjustment to accept the article regarding Short Term Rentals motion for Ordinance as proposed by city staff on file."** The motion was seconded by **Mr. Teel.**

Mr. Rogers asked if anyone on the Board would like to make an Amendment to Mr. Martinez's Motion.

Mr. Neff made a friendly amendment to the motion to address the issue of density and our ability to add in the language under section 35-482 zoning variances "I" special exceptions short term rentals type 2 to add a line that is "F" the special exceptions that will not alter the essential character of the district and location of the property" end of motion. Ms. Ojeda. Ms. Rogers called for a voice vote on the amendment and passed unanimously.

Mr. Oroian made an amendment to Section 16-114 Short term permit section A to add two more subsections 8 and 9. Ms. Hernandez clarified that chapter 16 was not being considered so an amendment cannot be given but that Mr. Oroian can ask Council to review requested sections. Ms. Rogers called for roll of the main motion.

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

THE MOTION IS GRANTED.

The Board of Adjustment recessed at 2:35 p.m. for a 15 minute break and reconvened at 2:50 p.m.

Case Number:	**A-18-026**
Applicant:	Paul D. Easley
Owner:	Southwest Research Institute
Council District:	6
Location:	Located in the 9800 block of West Commerce Street
Legal Description:	Lot 3, Lot PT of P-7 ARB P-7E, Lot P-9, The North 19.47 Feet of the South 132 Feet of Lot 2, Lot 4, Lot PT of P-7 ARB P-7F, Block 58, NCB 15331

Zoning: "I-1 GC-2 AHOD" General Industrial Highway 151 Gateway Corridor Overlay Airport Hazard Overlay District
Case Manager: Logan Sparrow, Principal Planner

Request

A request for variances from the following "GC-2" Highway 151 Gateway Corridor Overlay District design guidelines: 1) a 25 foot variance from the 50 foot front setback along Highway 151 to allow the setback to be 25 feet and 2) a variance from the requirement that landscaped bufferyards within the "GC-2" overlay contain canopy trees to allow a landscaped bufferyard containing only native grass and wildflowers and 3) a variance from the bufferyard standards that require a fence be located on the building side of the landscaped bufferyard to allow a fence on the property line and 4) a variance from the requirement that uses shall be completely screened from view at ground level at a minimum of six feet to allow the use of chain link fencing.

Logan Sparrow, Principal Planner presented the background information and staff's recommendation of the variance. He indicated 10 notices were mailed, 0 returned in favor, and 0 returned in opposition and no neighborhood association.

Baltazar Serna, representative introduced Dave Youngman from CPS Energy. Mr. Youngman gave a detailed presentation regarding the project. He explained CPS is working with the Southwest Research Center on the Solar Farm. Mr. Youngman then introduced Judy McElroy a consultant for CPS. She went into great detail on how they have gone above and beyond to preserve green space and trees. (100% of the trees in the flood plain were preserved)

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-18-026 closed.

MOTION

A motion was made by **Ms. Ojeda.** "Regarding Appeal No. A-18-026, a request for variances from the following "GC-2" Highway 151 Gateway Corridor Overlay District design guidelines: 1) a 25 foot variance from the 50 foot front setback along Highway 151 to allow the setback to be 25 feet and 2) a variance from the requirement that landscaped bufferyards within the "GC-2" overlay contain canopy trees to allow a landscaped bufferyard containing only native grass and wildflowers and 3) a variance from the bufferyard standards that require a fence be located on the building side of the landscaped bufferyard to allow a fence on the property line and 4) a variance from the requirement that uses shall be completely screened from view at ground level at a minimum of six feet to allow the use of chain link fencing, subject property being Lot 3, Lot PT of P-7 ARB P-7E, Lot P-9, The North 19.47 Feet of the South 132 Feet of Lot 2, Lot 4, Lot PT of P-7 ARB P-7F, Block 58, NCB 15331, situated in the 9800 Block of West Commerce Street, applicant being Paul D. Easley.

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 four variances sought seek to permit a unique development on an underutilized parcel. The Board can't establish how any of the four variance requests are contrary to the public interest in that each seek minor relief from the standard.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship*
   The special condition in this case is the uniqueness in the type of development proposed.

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 requirements rather than the strict letter of the law. The intent of the ordinance seeks to beautify the corridor. The applicant has proposed reasonable alternatives to achieve this, while allowing the project to proceed.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized*
   The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the "I-1 GC-2 AHOD" General Industrial Highway 151 Gateway Corridor 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.*
   Most surrounding property is vacant. As such, the Board finds that adjacent property owners are unlikely to be harmed by the requested variances.

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 the type of the proposed development. The applicant has established a carefully laid out site plan, and has proposed alternatives to satisfy the intent of the design overlay district." The motion was seconded by **Mr. Rodriguez.**

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

THE VARIANCES HAS BEEN GRANTED.

Case Number:	A-18-008
Applicant:	Henneke Financial Group, LLC
Owner:	Henneke Financial Group, LLC
Council District:	2
Location:	1121 East Crockett Street
Legal Description:	East 55.35 Feet of Lot 6, Block C, NCB 578
Zoning:	"RM-4 H AHOD" Residential Mixed Dignowity Hill Historic Airport Hazard Overlay District
Case Manager:	Logan Sparrow, Principal Planner

Request

A request for a special exception, as described in Section 35-514, to allow a six foot tall solid screen fence in a portion of the front yard.

Logan Sparrow, Principal Planner, presented background, and staff's recommendation of the variance requests. He indicated 21 notices were mailed, 1 returned in favor, and 1 returned in opposition and no response from the Dignowity Hill Neighborhood Association.

Felix Vega, representative gave a detailed presentation and stated the HDRC is in full support of the project.

The Following citizens appeared to speak.

Collin Jones, 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-18-008 closed.

MOTION

A motion was made by **Mr. Rodriguez** "Regarding Appeal No. A-18-008, a request for a special exception to allow a six foot tall solid screen fence in a portion of the front yard, subject property being the East 55.35 Feet of Lot 6, Block C, NCB 578, situated at 1121 East Crockett Street, applicant being Henneke Financial Group, LLC.

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

Specifically, we find that:

A. *The special exception will be in harmony with the spirit and purpose of the chapter.*

The spirit of the chapter is intended to provide for reasonable protections to property owners and to establish a sense of community within our neighborhoods. The request for a six foot tall fence in a portion of the front yard is in harmony with the spirit of the chapter as the applicant is merely seeking to replace a fence that has existed for years without any problems. No portion of the fence is in violation of the Clear Vision field.

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

In that an identical fence has existed in that location for years without any documented problems, staff finds that the public welfare will be served.

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

No portion of the fence is in violation of the Clear Vision field. No adjacent property owner, nor the traveling public, will be harmed by the proposed fence.

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 fence is question replaced an older, identical fence. The Board finds that the special exception request does not detract from the essential character of the district in which it is located.

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 "RM-4" Residential Mixed zoning district and permits the current use of a single-family home." **Ms. Cruz** seconded the motion.

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

THE VARIANCE IS GRANTED

Case Number:	**A-18-016**
Applicant:	Virginia Hernandez
Owner:	Minnie Hernandez
Council District:	2
Location:	926 North Pine Street
Legal Description:	The West 128.4 Feet of Lot 2, Block A, NCB 1653
Zoning:	"R-5 H AHOD" Residential Single-Family Dignowity Hill Historic Airport Hazard Overlay District
Case Manager:	Debora Gonzalez, Senior Planner

Request

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

Debora Gonzalez, Senior Planner, presented the background information, and staff's recommendation of the variance request. She indicated 23 notices were mailed, 1 returned in favor, 0 returned in opposition and no response from the Dignowity Hills Neighborhood Association.

Virginia Hernandez, stated that after her contract ran out she decided to work from home to save time and money. She will be working by appointment and asked for the Boards approval.

The following Citizens appeared to speak.

Barbara Garcia, 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-18-016 closed.

MOTION

A motion was made by **Ms. Cruz,** "Regarding Appeal No. A-18-016, a request for a special exception to allow a one-operator beauty/barber shop within a single-family home, subject property being The West 128.4 Feet of Lot 2, Block A, NCB 1653, situated at 926 North Pine Street, applicant being Virginia 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 spirit and purpose of the chapter is to ensure that the operation of a one-operator beauty/barber shop does not negatively impact the character of the community or the quality of life of neighbors. The applicant has fulfilled all requirements for a one-operator shop as established in the Unified Development Code.

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

The public welfare and convenience will be served as it will provide a valuable service to the residents of the neighborhood. The proposed hours of operation will be limited to Wednesday through Sunday from 10 am to 6 pm, by appointment only.

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

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

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

The requested special exception is not likely to alter the essential character of the district as the property is still used, primarily, as residence.

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

The primary use of the dwelling remains a residence. The one-operator barber/beauty shop will have restricted hours, which are established by the Board of Adjustment. The applicant has met all other requirements established by the Unified Development Code." Ms. Ojeda seconded the motion.

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

THE SPECIAL EXCEPTION IS GRANTED

Case Number:	**A-17-213**
Applicant:	Mariana Munante
Owner:	Lima Square, LLC
Council District:	2
Location:	601 and 603 Coleman Street
Legal Description:	Lot 37, Block 1, NCB 12831
Zoning:	"R-6 CD" Residential Single Family District with Conditional Use for a Duplex
Case Manager:	Logan Sparrow, Principal Planner

Request

A request for a four foot and ten inch variance from the five foot side yard setback, as described in Section 35-310.01, to allow a home to be as near as two inches from the side property line.

Logan Sparrow, Principal Planner, presented background information, and staff's recommendation of the variance requests. He indicated 24 notices were mailed, 1 returned in favor, 0 returned in opposition and no response from the Government Hill Neighborhood Association.

Mark Benavides, contactor/representative gave the history of Ms. Munante plight to from hiring multiple contractors that were not licensed and calculated the dimensions incorrectly requiring the needed variances.

No citizens appeared to speak.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-17-213 closed.

MOTION

A motion was made by **Mr. Oroian.** "Regarding Appeal No. A-17-213, a request for a four foot and ten inch variance from the five foot side yard setback to allow a home to be as near as two inches from the side property line, subject property being Lot 37, Block 1, NCB 12831, situated at 601 and 603 Coleman Street, applicant being Mariana Munante.

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 represented by setbacks to provide separation between incompatible uses and to ensure fair and equal access to air and light. Because the applicant owns the adjacent property, 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 in this case is that the contractor inappropriately identified the property line and placed the foundation too close to the 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 requirements rather than the strict letter of the law. The intent of the setback is to provide separation between neighbors. Because the applicant also owns the adjacent property, the Board finds that the spirit of the ordinance will be observed.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized*
   The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the "R-6 CD" Residential Single-Family District with Conditional Use for a Duplex.

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.*
   Because the neighbor most immediately affected by the variance request is also the applicant, the Board finds that adjacent property is unlikely to be injured.

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 contractor placed the foundation too close to the side property line. This is not the fault of the owner of the property." The motion was seconded by **Mr. Teel.**

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

THE VARIANCE FAILED

The Board of Adjustment recessed for a 10 min break at 4:15 p.m. and reconvened at 4:25 p.m.

Case Number:	**A-18-013**
Applicant:	Leticia and Luis Reyes
Owner:	Leticia and Luis Reyes
Council District:	3
Location:	716 Naylor Street
Legal Description:	The North Irregular 42.23 Feet of the West 19.93 Feet of Lot 10 and the North Irregular 32.5 Feet of Lot 11, Block 13, NCB 3219
Zoning:	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager:	Logan Sparrow, Principal Planner

Request

A request for 1) an eight foot variance from the ten foot front setback, as described in Section 35-310.01, to allow a carport to remain two feet from the front property line and 2) a four foot and six inch variance from the five foot side yard setbacks, as described in Section 35-310.01, to allow a carport six inches from the side property lines and 3) a request for a variance from the prohibition against corrugated or sheet metal fencing, as described in Section 35-514, to permit unauthorized fencing materials and 4) a special exception, as described in Section 35-399.04, to allow a seven foot tall solid screen fence in the front and rear yard of the property.

Logan Sparrow, Principal Planner, presented background information, and staff's recommendation of the variance request. He indicated 25 notices were mailed, 1 returned in favor, 0 returned in opposition and no neighborhood association.

Erica Reyes (daughter) spoke on behalf of Leticia & Luis Reyes, applicants stated the neighbors steal and throw objects at the neighbors and on to the property. They produced multiple police reports to that effect. They also stated that while constructing the carport a city employee stopped by and never mentioned anything about stopping construction.

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-18-013 closed.

MOTION

A motion was made by **Mr. Oroian.** "Regarding Appeal No. A-18-013, 1) an eight foot variance from the ten foot front setback to allow a carport to remain two feet from the front property line and 2) a four foot and six inch variance from the five foot side yard setbacks to allow a carport six inches from the side property lines and 3) a request for a variance from the prohibition against corrugated or sheet metal fencing to permit unauthorized fencing materials, subject property being the North Irregular 42.23 Feet of the West 19.93 Feet of Lot 10 and the North Irregular 32.5 Feet of Lot 11, Block 13, NCB 3219, situated at 716 Naylor Street, applicant being Leticia and Luis Reyes.

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 Board finds that the variance requests for the front and side setbacks are not contrary to the public interest because there is minimal space within the front yard to meet the setbacks. Further, the Board finds that the variance request to allow the metal fencing is not contrary to the public interest because there are similar fences in the neighborhood.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship*
   The special condition present in this case that warrants the setback variances are that there is minimal room in the front of the property. Also, the property across the street has similar fencing materials.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*
   The Board finds that the spirit of the ordinance is observed in that there is still some room for maintenance of the carport, and because the fencing material does not 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 requested variance will not authorize the operation of a use on the subject property other than those specifically permitted 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 Board finds that adjacent property owners are not likely to be harmed because there is still some space to maintain the carport, and because the metal fencing material does not detract from 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 present in the case is that the yard is small, and building a carport to meet the setbacks is difficult. The Board finds the metal fencing should be permitted because it is necessary to provide privacy." Mr. Teel seconded the motion.

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

THE SPECIAL EXCEPTION PASSES.

Regarding Appeal No. A-18-013, a request for 4) a special exception to allow a seven foot tall solid screen fence in the front and rear yard of the property, subject property being the North Irregular 42.23 Feet of the West 19.93 Feet of Lot 10 and the North Irregular 32.5 Feet of Lot 11, Block 13, NCB 3219, situated at 716 Naylor Street, applicant being Leticia and Luis Reyes.

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

Specifically, we find that:

A. *The special exception will be in harmony with the spirit and purpose of the chapter.*

The spirit and purpose of the chapter is to ensure that property owners are afforded reasonable opportunities to protect their property and to provide for a sense of community within our neighborhoods. The board finds that the request for seven foot tall fencing in the front and rear of the subject property will be in harmony with the spirit of the chapter in that it will allow the applicant to secure their property.

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

The public welfare and convenience will be served as the applicant will be able to keep the existing fence to secure their property.

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

The requested special exception is not likely to negatively impact adjacent property owners because it does not detract from the character of the community.

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

The requested special exception is not likely to alter the essential character of the district as the property is residential in nature.

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

The primary use of the dwelling remains a residence. The fence does not detract from the purpose of the zoning district." End of motion. Mr. Rodriguez seconded the motion.

Mr. Martinez made an amendment to the motion to exclude the front property line from the motion. No need to allow a 7 foot fence on the property line. Mr. Kuderer seconded the motion. Ms. Rogers called for a raise of hands and motion passed unanimously.

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

THE SPECIAL EXCEPTION PASSES.

Case Number:	**A-18-012**
Applicant:	Nataly Jennings
Owner:	Nataly and Joshua A Jennings
Council District:	1
Location:	318 Refugio Street
Legal Description:	The North 51.5 Feet of Lot 5, Block 11, NCB 714
Zoning:	"RM-4 H AHOD" Residential Mixed Lavaca Historic Airport Hazard Overlay District
Case Manager:	Oscar Aguilera, Planner

Request

A request for 1) a one foot variance from the five foot side setback requirement, as described in Section 35-310.00, to allow a home addition to be four feet from the side property line and 2) a 3'8" variance from the ten foot rear setback, as described in Section 35-310.01, to allow a home addition to be 6'4" from the rear property line.

Oscar Aguilera, Planner, presented background, and staff's recommendation of the variance requests. He indicated 27 notices were mailed, 1 returned in favor, and 0 returned in opposition and no response from the Lavaca Hill Neighborhood Association.

Nataly Jennings, applicant stated she intended to stay at the residence and follow all city and historical regulations. The modifications are needed for her growing family.

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-18-012 closed.

MOTION

A motion was made by **Mr. Teel.** "Regarding Appeal No. A-18-012, a request 1) a one foot variance from the five foot side setback requirement to allow a home addition to be four feet from the side property line and 2) a 3'8" variance from the ten foot rear setback to allow a home addition to be 6'4" from the rear property line, subject property being the north 51.5 Feet of Lot 5, Block 11, NCB 714, situated at 318 Refugio Street, applicant being Nataly Jennings.

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 setbacks to provide separation between incompatible uses and to ensure fair and equal access to air and light. The proposed bathroom addition was approved by the Office of Historic Preservation and the proposed addition's wall will be fire-rated. Staff 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 in this case is that the current home is only 1096 square feet in living area and the applicant is struggling to complete an addition that meets the required setback. Staff finds that a literal enforcement of the ordinance would result in 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 requirements rather than the strict letter of the law. The intent of the setback is to provide sufficient separation between incompatible uses. Since the lot is only 2713 square feet and the applicant will provide a fire-rated wall for the addition, staff finds that the spirit of the ordinance will be observed.

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 authorize the operation of a use on the subject property other than those specifically permitted in the "RM-4 H AHOD" Residential Mixed Lavaca 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.*

Since the lot is only 2713 square feet and the applicant will provide a fire-rated wall for the addition, it is unlikely that adjacent property will be harmed by the proposed development.

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 property addition does meet the side setback and there are similar rear setbacks within the subdivision. This setback issue is not merely financial in nature

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

THE VARIANCE IS GRANTED

Case Number:	**A-18-015**
Applicant:	Luciano and Olga Medina
Owner:	Luciano and Olga Medina
Council District:	5
Location:	130 West Green Way Avenue
Legal Description:	Lot 3 Except the South 8 Feet, Block 14, NCB 7546
Zoning:	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager:	Oscar Aguilera, Planner

Request

A request for a four foot and eleven inch variance from the five foot side setback, as described in Section 35-516, to allow a carport to be one inch from the side property line.

Oscar Aguilera, Planner, presented background, and staff's recommendation of the variance requests. He indicated 29 notices were mailed, 1 returned in favor, and 0 returned in opposition and no response from the Thompson Neighborhood Association.

Luciano & Olga Medina, applicant stated the carport is for protection from the weather, safety and leisure of the family.

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-18-015 closed.

MOTION

A motion was made by **Mr. Martinez.** "Regarding Appeal No. A-18-015, a request for a four foot and eleven inch variance from the five foot side setback to allow a carport to be one inch from the side property line, subject property being Lot 3 Except the South 8 Feet, Block 14, NCB 7546, situated at 130 West Green Way Avenue, applicant being Luciano and Olga Medina.

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.*
   In this case, the public interest is represented by adequate setbacks to preserve an open streetscape setback and to allow maintenance without trespass. As the proposed carport satisfies these principles, the requested variances are not contrary to public interest. Since the carport already was one inch from the side property line when the owner bought the property twenty years ago, the applicant needs handicap accessibility, and the applicant is rebuilding within the same blueprints, the structure does not represent a safety issue for the adjacent property.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
   Literal enforcement of the ordinance would prevent the property owner from parking his vehicle under the carport, which would result in an unnecessary hardship.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*
   The intent of the Code is to provide a minimum setback to establish safe and uniform development for the City of San Antonio. The applicant will provide gutter for the carport draining away from the adjacent property and the adjacent property is vacant, so the structure does not present a fire hazard. Therefore, the spirit of the ordinance is upheld.

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 variance will not authorize the operation of a use other than those uses specifically authorized in the "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District.

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

If the requested variances are approved, the carport will not alter the character of the district, which has seen the addition of several carports over the years. Further, as the requested carport existed at its current location, the request has not affect neighboring properties for the twenty year existence of the carport.

6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.*
The unique circumstance is that the property owner purchased the property twenty years ago with the existing carport but a fire destroyed the property. The applicant rebuilt the structure in order to provide coverage for his property, handicap accessibility, and protection during inclement weather.

Mr. Oroian made an amendment to the carport to 20 feet. No one seconded the amendment. Motion dies.

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

THE VARIANCE IS GRANTED

Case Number:	**A-18-002**
Applicant:	Roi Biton
Owner:	Promised Land Investments Properties LLC
Council District:	5
Location:	210 Furnish Avenue
Legal Description:	Lot 18, NCB 2874
Zoning:	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager:	Debora Gonzalez, Senior Planner

Request

A request for a four foot variance from the five foot side yard setback, as described in Section 35-310.01, to permit a carport to be one foot from the side property line.

Oscar Aguilera, Planner, presented background, and staff's recommendation of the variance requests. He indicated 35 notices were mailed, 0 returned in favor, and 0 returned in opposition and no neighborhood association.

Roi Biton, applicant stated he built the carport for protection of his vehicles and from weather and fire rated the carport for safety.

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-18-015 closed.

MOTION

A motion was made by **Mr. Teel.** "Regarding Appeal No. A-18-002, a request for a four foot variance from the five foot side setback to allow a carport to be one foot from the side property line, subject property being Lot 18, NCB 2874, situated at 210 Furnish Avenue, applicant being Roi Biton.

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 represented by setbacks to provide separation between incompatible uses and to ensure fair and equal access to air and light. The carport is currently designed such that rainwater will not drain onto adjacent property.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship*
   The special condition in this case is that meeting the full five foot side setback renders the carport unusable.

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 requirements rather than the strict letter of the law. The intent of the setback is met as the applicant has designed the carport so that rainwater does not negatively impact adjacent property owners.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized*
   The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted 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.*
   Because the carport was designed with a roof sloping away from the adjacent property, the Board finds that the structure is unlikely to harm 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 there is not enough room for the carport to meet the five foot side setback and remain functional." End of motion. Mr. Oroian seconded the motion.

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

THE VARIANCE IS GRANTED

The Board of Adjustment held elections with the following results:

Mr. Martinez nominated John Kuderer for Chair and received 5 votes.
Ms. Ojeda nominated Alan Neff for Chair and received 3 votes.
Mr. Rodriguez nominated Mary Rogers for Chair and received 2 votes while Mr. Britton did not vote.
Mr. Kuderer was elected Board of Adjustment Chair.

Ms. Ojeda nominated Alan Neff for Vice Chair and received 5 votes.
Mr. Kuderer nominated Roger Martinez for Vice Chair and received 6 votes.
Mr. Martinez was elected Board of Adjustment Vice- Chair.

Mr. Kuderer nominated Donald Oroian for Pro-Tem and received 3 votes.
Ms. Rogers nominated Denise Ojeda for Pro-Tem and received 2 votes.
Ms. Ojeda nominated Alan Neff for Pro-Tem and received 6 votes.
Mr. Neff was elected Board of Adjustment Pro-Tem.

Ms. Rogers made a motion to approve the January 8, 2018 minutes with all members voting in the affirmative.

Manager's report: None

There being no further discussion, meeting adjourned at 6:05 p.m.

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: 2/5/18

ATTESTED BY: _____ DATE: Feb. 14, 18
Executive Secretary