

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
July 16, 2018**

Members Present:	Dr. Zottarelli Alan Neff Denise Ojeda George Britton Jr Maria Cruz Paul Klein Mary Rogers Donald Oroian John Kuderer Roger Martinez Jay Gragg Jeff Finlay	Staff: Catherine Hernandez, DSD Administrator 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.

German Perez, Interpreter, World Wide Languages, 234 W. Sunset, present

Case Number:	A-18-092
Applicant:	Jason Tyson
Owner:	Carol and Steve Spears
Council District:	10
Location:	2922 Albin Drive
Legal Description:	Lots 3, 6, 18 & the West 70 Feet of Lot 4, Block 2, NCB 11838
Zoning:	"NP-8 AHOD" Neighborhood Preservation Airport Hazard Overlay District
Case Manager:	Debora Gonzalez, Senior Planner

Request

A request for 1) a special exception, as described in Section 35-514, to allow an 8' tall solid screen fence along the side property lines and 2) a request for a variance from the Clear Vision standards, as described in Section 35 -514, to allow a fence within the Clear Vision field.

Debora Gonzalez, Senior Planner presented the background information and staff's recommendation of the variance. She indicated 39 notices were mailed, 2 returned in favor, and 0

returned in opposition with no response from the Oak Park North Woods Neighborhood Association.

Ashley Fairmond, Kaufman and Killen, gave a short presentation, explained the need for the fence and respectfully asked for the Boards approval.

The Following citizen appeared to speak.

Pat Athens, 2910 Albins, 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-18-092 closed.

Mr. Martinez made a motion. "Regarding Appeal No A-18-092, a request for 1) a special exception to allow an 8' tall solid screen fence along the side property, situated at 2922 Albin Drive, applicant being Jason Tyson.

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 8'. The additional fence height is intended to provide privacy and security of the applicant's property. If granted, this request would be in harmony with the spirit and purpose of the ordinance.
- B. *The public welfare and convenience will be substantially served.*
In this case, these criteria are represented by maximum fence heights to protect residential property owners while still promoting a sense of community. An 8' tall solid screen fence was built along the side property lines to provide additional privacy for the property. This is not contrary to the public interest.
- 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 privacy for the subject property and is highly unlikely to injure adjacent properties.
- 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.*
Staff finds that an 8' solid screen fence on the side of the property will give privacy to both neighbors. The previous side yard fence existed since 1983 but it lost its non-conforming status when it was removed.

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

Staff is supportive of an 8' solid screen fence along the side property line as it creates privacy with adjacent property." Mr. Neff seconded the motion.

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

NAYS: None

VARIANCE 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.

Dominic Silva, Planner presented the background information and staff's recommendation of the variance. She indicated 24 notices were mailed, 1 returned in favor, and 1 returned in opposition with no neighborhood association.

Joseph Pham, representative, 7412 Cool Creek Dr. stated his father in law is 100% disabled and the carport is necessary to protect his family and vehicles from the weather. Removing it would cause a financial hardship.

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-18-093 closed.

Mr. Martinez made a motion. "Regarding Appeal No A-18-093, a request for a 2' variance from the 5' side setback to allow a carport to be 3' from the side property line, situated at 7214 Cool Creek Drive, applicant being Rodolfo Barron.

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. The Board finds that a modified request to allow the carport to be 3' from the side property line will limit any potential storm water runoff onto adjoining properties, and adhere to fire separation and fire rating.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship. The Board finds that the modification of the carport to be 3' feet from the side property line limits any other hardships to the owner while also eliminating any hardships to the conforming adjoining properties.*

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

Modifying the carport to be 3' feet from the side property line would provide fair and equal access to air, light, and proper storm water controls, while also providing 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-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.*

Staff's alternate recommendation of a 3' setback from the side property line would alleviate the concern of injuring the appropriate use of adjacent conforming properties while also eliminating the hardship of dismantling the carport altogether.

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 supports the carport placement with a reduced setback of 3' from the side property line that would alleviate concerns of storm water runoff, fire spread, and maintenance of the structure." Ms. Rogers seconded the motion.*

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

NAYS: Klein

THE VARIANCE IS GRANTED



Case Number: A-18-114
Applicant: Armando Canales
Owner: Armando Canales
Council District: 1
Location: 226 Croesus Avenue
Legal Description: Lot 2, Block 2, NCB 12260
Zoning: "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager: Debora Gonzalez, Senior Planner

Request

A request for 1) a 7' variance from the 10' front yard setback, as described in Section 35-310.01, to allow a carport to be 3' from the front property line and 2) a 15% variance from the 50% maximum front yard impervious cover limitation, as described in Section 35-515 (d)(1), to allow the front yard to be 65% covered in impervious surfacing.

Debora Gonzalez, Senior Planner presented the background information and staff's recommendation of the variance. She indicated 24 notices were mailed, 1 returned in favor, and 1 returned in opposition with the Dellview Area Neighborhood Association.

Joseph Tober, representative, stated the carport was enlarged to get the cars off of the busy street. He also said all water drains to the street and they maintained the 5 foot setback.

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-18-114 closed.

Dr. Zottarelli made a motion. "Regarding Appeal No A-18-114 a request for a 7' variance from the 10' front yard setback to allow a carport to be 3' from the front property line and 2) a 15% variance from the 50% maximum front yard impervious cover limitation to allow the front yard to be 65% covered in impervious surfacing, situated at 226 Croesus Avenue, applicant being Armando Canales.

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 served by setbacks, which help to provide consistent development within the City of San Antonio. The impervious coverage limitation preserves storm water management by reducing runoff and increasing storm water travel times. The applicant is seeking a variance to allow the carport to remain 3'

from the front property line and an increased in impervious surfacing in the front yard. Allowing the carport and to be 3' from the front property line aligns with the character of the neighborhood and the subject property mitigates the amount of storm water retained on-site. The Board finds that such variances, as proposed, are 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 carport to be moved to meet the front setback and to remove front yard impervious cover to meet the 50% maximum requirement. The structure will still be required to obtain permits, reviews, and inspections.

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. In this case, the intent is to provide enough of a setback to provide for a cohesive streetscape. The intent of the impervious coverage limitation requirements is to prevent water flooding and to preserve 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 "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District.

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

The impervious coverage mitigates the amount of storm water retained on-site and other similar size carports are within the vicinity of this property. Therefore, the requested variances will not injure adjacent property owners.

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 that the area has multiple properties with carports and the requested impervious cover mitigates drainage issues which will not injure adjacent property owners. This issue is not merely financial in nature.

AYES: None

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

THE VARIANCE FAILED

Case Number: A-18-113
Applicant: Albert B. Fernandez, Jr.
Owner: Bexar County
Council District: 9
Location: 320 Interpark Boulevard
Legal Description: Lot 2, Block 1, NCB 17184
Zoning: "I-1 AHOD" General Industrial Airport Hazard Overlay District
Case Manager: Dominic Silva, Planner

Request

A request for an 82 percent variance from the 30' Type E landscaped buffer yard requirements, as described in Section 35-510, to allow a lot to be developed with 18 percent of the required buffer yard.

Dominic Silva, Planner, presented background, and staff's recommendation of the variance requests. He indicated 10 notices were mailed, 0 returned in favor, and 0 returned in opposition with no neighborhood association.

Fernando Aguilar, 237 Travis St. representative, stated additional parking was needed for the three courtrooms and worked with staff for this request.

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-18-113 closed.

Mr. Finlay made a motion. "Regarding Appeal No A-18-113, a request for an 82 percent variance from the required buffer yard area to allow the lot to be developed with 18 percent of the required buffer yard, situated at 320 Interpark Boulevard, applicant being Bexar County.

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 82 percent buffer yard reduction is not contrary to public interest as it does not negatively impact any surrounding properties or the general public. The buffer yard is located in the far back of the property and cannot be seen from any street right-of-way.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship. Literal enforcement would not allow the expansion of the parking lot as*

proposed due to the requirements of a 30' bufferyard. Altering the existing conditions to meet the required bufferyard would result in unnecessary hardship.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done. In this case, the proposed bufferyard will adhere to the spirit of the ordinance and substantial justice will be done by implementing an 18 percent bufferyard where none exists currently in order to enhance the proposed westward parking lot expansion.*
4. *The variance will not authorize the operation of a use other than those uses specifically authorized. The requested variances will not authorize the operation of a use on the subject property other than those specifically permitted in the "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. The introduction of an 82 percent bufferyard reduction would not alter the essential character of the district as the area is largely commercial and industrial.*
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 renovation and expansion of parking lots to the west. The existing curb and electrical easements lies directly on the southern property line, limiting the amount of bufferyard without significantly altering existing conditions." Mr. Martinez seconded the motion.

Mr. Oroian made a motion to limit the Bufferyard to the Southern portion of the property. Ms. Ojeda seconded the amendment. A voice vote was taken and passed unanimously.

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

NAYS: Klein

THE VARIANCE IS GRANTED

The Board of Adjustment convened for a break at 2:40pm and returned at 2:53pm.

Case Number:	A-18-116
Applicant:	Thomas Simms Oliver
Owner:	Thomas Simms Oliver

Council District: 10
Location: 162 Cave Lane
Legal Description: Lot 26, NCB 11861
Zoning: "NP-10 AHOD" Neighborhood Preservation Airport Hazard Overlay District
Case Manager: Dominic Silva, Planner

Request

A request for a 715 square foot variance from the maximum 800 square foot floor area, as described in Section 35-371(b)(2), to allow a 1,515 square foot accessory detached dwelling unit.

Dominic Silva, Planner, presented background, and staff's recommendation of the variance requests. He indicated 20 notices were mailed, 1 returned in favor, and 0 returned in opposition with no response from the Oak Park Northwood Neighborhood association.

Tom Sims Oliver, 162 Cave Lane, applicant stated he wants to build a suite for his mother who is elderly. She has very little family and he wants her around her grandkids.

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-18-116 closed.

Mr. Klein made a motion. "Regarding Appeal No A-18-116, a request for a 715 square foot variance from the maximum 800 square foot floor area to allow a 1,515 square foot detached dwelling unit, situated at 162 Cave Lane, applicant being Thomas Simms Oliver.

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 large lot size and location of the proposed dwelling unit within the rear yard, the variance is highly unlikely to be noticed from the public right-of-way.

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

Although the proposed dwelling unit is set well within the rear yard and out of view of the public right-of-way due to the location of the structure and bounded by mature trees, literal enforcement of the ordinance would result in the owner being unable to develop 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 within a lot of substantial size.

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

The requested variances will not authorize the operation of a use on the subject property other than those specifically permitted in the "NP-10 AHOD" Neighborhood Preservation 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 to 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 onto adjacent properties due to the adherence of all setbacks within the property.

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

The applicant has a substantial lot with a large home and is bounded by mature trees and dense foliage. The accessory dwelling unit will be proportional in size with the principal structure and follows all setbacks and permitting requirements." Mr. Martinez seconded the motion.

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

NAYS: None

THE VARIANCE IS GRANTED

Case Number:	A-18-119
Applicant:	Robert Ritz and Virginia Ritz
Owner:	Robert Ritz and Virginia Ritz
Council District:	4
Location:	1207 Hunter Boulevard

Legal Description: Lot 37, NCB 11055
Zoning: "MF-33 AHOD" Multi-Family Airport Hazard Overlay District
Case Manager: Dominic Silva, Planner

Request

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

Dominic Silva, Planner, presented background, and staff's recommendation of the variance requests. He indicated 21 notices were mailed, 0 returned in favor, and 1 returned in opposition with no neighborhood association.

Robert and Virginia Ritz, applicants stated the structure has been there 16 years and when they built an addition in 2003 they thought the carport was included, they assumed the contractor had pulled the permit for both.

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-18-119 closed.

Mr. Neff made a motion. "Regarding Appeal No A-18-119, a request for 1) a 4'11" variance from the 5' side yard setback to allow a carport to be 1" from the side property line and 2) a 9'11" variance from the 10' front yard setback to allow a carport to be 1" from the front property line, situated at 1207 Hunter Boulevard, applicant being Robert Ritz and Virginia Ritz.

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

Specifically, we find that:

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

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

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

Literal enforcement of the ordinance would require that the applicant remove that portion of the carport that infringes into the front and side setback which would result in unnecessary financial hardship.

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

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

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

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

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

The Board finds that the carport, as designed, prevents storm water runoff onto adjacent properties, prevents fire spread, and does not alter the essential character of the district.

6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located. The plight of the owner is due to the size of lot and location of the driveway, which leaves inadequate room for a carport of any substantial size.” Mr. Britton seconded the motion.*

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

NAYS: Martinez

THE VARIANCE IS GRANTED

Case Number:	A-18-122
Applicant:	Matthew Baillio and Erika Gloria
Owner:	Matthew Baillio and Erika Gloria
Council District:	9
Location:	10710 Dreamland Drive
Legal Description:	Lots 3 and 4, Block 1, NCB 13214
Zoning:	“R-6” Residential Single-Family District
Case Manager:	Dominic Silva, Planner

Request

A request for a special exception, as described in Section 35-514, to allow an 8' tall privacy fence in a portion of the front yard.

Dominic Silva, Planner, presented background, and staff's recommendation of the variance requests. He indicated 24 notices were mailed, 1 returned in favor, and 0 returned in opposition with the Highland Hills Neighborhood Association is in opposition of item #1

Matthew Baillo, applicant stated with the incline of the property he built the fence for safety and privacy reasons and requested 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-18-122 closed.

Mr. Oroian made a motion. "Regarding Appeal No A-18-122, a request for a special exception to allow an 8' tall solid screen fence in a portion of the front yard, situated at 10710 Dreamland Drive, applicant being Matthew Baillio and Erika Gloria.

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 8'. The additional fence height is intended to provide safety and security of the applicant's property. If granted, this request would be in harmony with the spirit and purpose of the ordinance.

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

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

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

The fence will create enhanced security and privacy 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 “R-6” Residential Single-Family 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: Oroian, Martinez, Neff, Britton, Klein, Finlay, Rogers, Cruz, Dr. Zottarelli, Ojeda, Kuderer

NAYS:

THE VARIANCE IS GRANTED

Case Number: A-18-118
Applicant: William Evans
Owner: William Evans
Council District: 3
Location: 3303 Pollydale Avenue
Legal Description: Lot 26, Block 6, NCB 13080
Zoning: “R-5” Residential Single-Family District
Case Manager: Debora Gonzalez, Senior Planner

Request

A request for 1) a 4’11” variance from the 5’ side setback, as described in Section 35-310.01, to allow an attached patio cover to be 1” from the side property line, and 2) a 4.5’ variance from the 20’ rear yard setback, as described in Section 35-310.01, to allow an attached patio cover to have a 15.5’ rear setback.

Mr. Martinez made a motion to continue case #A-18-118 August 20, 2018. **Ms. Cruz** seconded the motion. A voice vote was taken and passed unanimously.

Case Number: A-18-120
Applicant: Tanya Lechner
Owner: Ryan Kutzik
Council District: 1
Location: 1710 Grant Avenue
Legal Description: The North 30 Feet of Lots 23 and 24, Block 4, NCB 3105
Zoning: “R-4 NCD-5 AHOD” Residential Single-Family Beacon Hill
 Neighborhood Conservation Airport Hazard Overlay District
Case Manager: Debora Gonzalez, Senior Planner

Request

A request for 1) a variance from the Beacon Hill Neighborhood Conservation District design requirements to allow the primary structure to be 7'3" from the front property line, and 2) a 18' variance from the 20' rear setback, as described in Section 35-310.01, to allow the primary structure to be 2' from the rear property line, and 3) a 2' variance from the 5' side yard setback, as described in Section 35-310.01, to allow the primary structure to be 3' from the side property line, and 4) a 2,500 square foot variance from the 4,000 square foot minimum lot size to allow a lot zoned "R-4" to be 1,500 square feet, and 5) a request for a parking adjustment, as described in Section 35-526 (b)(7), to allow the lot to contain no off-street parking.

Dominic Silva, Planner, presented background, and staff's recommendation of the variance requests. He indicated 28 notices were mailed, 0 returned in favor, and 0 returned in opposition with no response from the Beacon Hill Neighborhood Association.

Tanya Lechner, 259 Goodhue, representative stated they hired a contractor who did not pull the proper permits and learned a hard lesson. They want to provide affordable housing for the community.

The Following Citizens appeared to speak.

Mark Spielman, 900 W Woodlawn, spoke neither for 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-18-120 closed.

Mr. Martinez made a motion. "Regarding Appeal No A-18-120, a request for 1) a variance from the Beacon Hill Neighborhood Conservation District design requirements to allow the primary structure to be 7'3" from the front property line, and 2) a 18' variance from the 20' rear setback to allow the primary structure to be 2' from the rear property line, and 3) a 2' variance from the 5' side yard setback to allow the primary structure to be 3' from the side property line, and 4) a 2,500 square foot variance from the 4,000 square foot minimum lot size to allow a lot zoned "R-4" to be 1,500 square feet, and 5) a request for a parking adjustment to allow the lot to contain no off-street parking, situated at 1710 Grant Avenue, applicant being Tanya Lechner.

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 existing structure is 7'3" from the front property line, 2' from the rear property line, 3' from the side property line, and the addition aligns with the existing footprint. Staff finds the request is not contrary to the public interest in that the

requested setbacks largely maintain what has been in place for years, and are similar to other setbacks within the community.

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. The applicant remodeled the existing structure and built an addition to the side of the house. A literal enforcement of the ordinance would render the property nearly undevelopable. Staff 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 lot is only 1500 square feet and the applicant is seeking to keep the additional living space added to the structure. Staff finds that a literal enforcement of the ordinance would result in unnecessary hardship as the variances will not permit massing that is not found elsewhere in the neighborhood.

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 NCD-5 AHOD" Residential Single-Family Beacon Hill 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.*

The addition will not detract from the neighborhood as the addition will not deviate substantially from existing setbacks. Specifically, the variances would not place the structure 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 front, side and rear setbacks, and removing the off-street parking. This issue is not merely financial in nature." Dr. Zottarelli seconded the motion.

Mr. Martinez then made a motion to consider items 1-4 separately. Mr. Oroian seconded the motion. A voice vote was taken and passed unanimously.

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

NAYS: Ojeda

THE VARIANCE IS GRANTED

Mr. Martinez made a motion to consider item 5 from the motion, Ms. Ojeda seconded the motion.

AYES: Martinez, Dr. Zottarelli, Oroian, Britton, Klein, Rogers, Cruz, Kuderer

NAYS: Ojeda, Finlay, Neff

THE VARIANCE FAILED

Case Number: A-18-128
Applicant: Joe Farias
Owner: Ana Menchaca
Council District: 1
Location: 403 Cincinnati Avenue
Legal Description: Lot 21, Block 9, NCB 2020

Zoning: "RM-4 AHOD" Residential Mixed Airport Hazard Overlay District
Case Manager: Debora Gonzalez, Senior Planner

Request

A request for a 9' variance from the 20' garage setback, as described in Section 35-516(g), to allow a garage to be 11' from the front property line.

Debora Gonzalez, Senior Planner, presented background, and staff's recommendation of the variance requests. She indicated 28 notices were mailed, 0 returned in favor, and 2 returned in opposition 2 opposed anonymously with no response from the Uptown Neighborhood Association.

Joe Farias, 8403 Timberbelt, applicant stated they are using the same footprint of the property and just would like add garages.

The Following 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-18-128 closed.

Dr. Zottarelli made a motion. "Regarding Appeal No A-18-128, a request for a 9' variance from the 20' garage setback to allow a garage to be 11' from the front property line, situated at 403 Cincinnati Avenue, applicant being Joe Farias.

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 garage setbacks to ensure that vehicles not obstruct the ROW. The requested reduction would allow for four townhomes to be developed on the lot with the same garage setback as the previous improvement. Staff 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.*

Literal enforcement of the ordinance would require that the applicant adhere to the garage setback limitations, which would result in a loss of density on the subject property. The proposed four townhome use is allowed within the “RM-4” Residential Mixed base zoning district.

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 garages may be used for the required off-street parking.

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 requested variance will not injure the appropriate use of adjacent properties or alter the essential character of the neighborhood as the garages are highly unlikely to affect the public right-of-way or the clear vision ordinance. Further, the proposed structures will conform to current designs of the existing structure.

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

The plight of the owner is due to the narrow lot size. The applicant is orienting the structure to face south, with garage access entering from the east.

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

THE VARIANCE IS GRANTED

Mr. Kuderer made a motion to amend the July 2, 2018 minutes to clarify that he strongly objected to Ms. Ojeda making a presentation before the board. A vote was taken and passed 9-2.

July 2, 2018 meeting minutes were approved as amended.

Ms. Ojeda then made a motion to add comments to the July 2, 2018 minutes to explain why she made a presentation at that July 2nd meeting. A vote was taken and was denied 9-2.

There being no further discussion, meeting adjourned at 4:48 p.m.

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BY: [Signature]
Chairman

OR

Vice-Chair

DATE:

8/6/18

ATTESTED BY:

Executive Secretary

DATE:

10/9/18