

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
April 2, 2018**

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

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

Mr. Kuderer, called the meeting to order and called roll of the applicants for each case.

Herman Perez, World Wide Languages-Interpreter, present.

Case #A-18-028 Has been withdrawn from consideration.

Logan Sparrow, Principal Planner read case #A-18-025 into the record.

Mr. Martinez made a motion to continue case #A-18-025 to May 21, 2018 and **Dr. Zottarelli** seconded the motion. Mr. Kuderer then asked if any citizens wished to speak on case #A-18-025.

Mr. Neff entered the meeting at 1:15p.m.

The following citizens appeared to speak:

Antoniette Vallon, 6442 Lost Holly, spoke in opposition.

Beverly McKinney, 6454 Lost Holly, yielded her 2 minutes to Antoinette Vallon.

Mark McKinney, 6454, Lost Holly, spoke in opposition.

Ruth Payton, 6479 Lost Holly, yielded her 2 minutes to Mark McKinney.

Lorretta Keller, 8942 Lost Woods, yielded her 2 minutes to Mark McKinney.

Mr. Kuderer then asked for a voice vote on motion A-18-025 to continue to May 21st Item passed unanimously.

Case Number: A-18-020
Applicant: Jesse A. Sepulveda
Owner: Jesse A. Sepulveda
Council District: 1
Location: 2611 San Pedro Avenue
Legal Description: Lot 16-20, Block 13, NCB 6435
Zoning: "O-1 NCD-2 AHOD" High Rise Office Neighborhood Commercial
Airport Hazard Overlay District
Case Manager: Debora Gonzalez, Senior Planner

Request

A request for variance from the following "NCD-2" Alta Vista Neighborhood Conservation District design requirements: 1) a three foot variance from the eight foot maximum sign height to allow a sign be eleven feet tall 2) a ten square foot variance from the 15 square foot maximum sign size to allow a 25 square foot sign.

Debora Gonzalez, Senior Planner, presented the background information and staff's recommendation of the variance. She indicated 29 notices were mailed, 2 returned in favor, and 2 returned in opposition with the Alta Vista / Monte Vista Neighborhood association opposed.

Jesse Sepulveda, applicant stated after meeting with the neighborhood associations the came to an agreement on the size of the sign and **amended the motion at the podium and agreed to one pole, a max of 9 ½ feet and 25 square feet.**

The following Citizens appeared to speak.

David Bogle, 723 W. French Place, representative from the Alta Vista Neighborhood Association 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-18-020 closed.

MOTION

A motion was made by **Mr. Martinez**. "Regarding Appeal No A-18-020, a request for variance from the following "NCD-2" Alta Vista Neighborhood Conservation District design requirements: 1) **1and a half** foot variance from the eight foot maximum sign height to allow a sign be **9and a half foot** tall 2) a ten square foot variance from the 15 square foot maximum sign size to allow a 25 square foot sign subject property at 2611 San Pedro Avenue, applicant being Jesse A. Sepulveda.

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 not contrary to the public interest.*

The variance is not contrary to the public interest because the signage promotes neighborhood aesthetics.

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

The special condition present in this case is the applicant's need for a larger sign. Should the applicant be made to design the sign to the required sign height and square footage imitations, the business would not have adequate visibility.

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

Substantial justice will be done in that neighborhood conservation district by enhancing the neighborhood aesthetics with the proposed sign.

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

The variance will not authorize the operation of a use other than those uses specifically authorized in the "O-1 NCD-2 AHOD" Office Alta Vista Neighborhood Conservation Overlay Airport Hazard Overlay District.

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

The requested variance will not detract from the character of the community and enhance a unique advertisement of 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 unique circumstance existing on this case is that the applicant plans to add tenant advertising space, which the current sign lacks." The motion was seconded by Mr. Rodriguez.

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

NAYS: None

THE VARIANCE IS GRANTED.



Item #A-18-027 was moved to the end of the agenda to give the applicant time to arrive at the meeting.

Case Number: A-18-059
Applicant: Mary Johnson
Owner: Mary Johnson
Council District: 1
Location: 311 West Norwood Court
Legal Description: Lot 23, Block 1, NCB 6555
Zoning: "MF-33 AHOD" Multi-Family Airport Hazard Overlay District
Case Manager: Logan Sparrow, Principal Planner

Request

A request for an appeal of the Director's decision on UDC Section 35-515(a): Buildings on a Lot and UDC Section 35-517: Building Height.

Logan Sparrow, Principal Planner presented the background information and staff's recommendation of the variance. He indicated 22 notices were mailed, 3 returned in favor, and 1 returned in opposition. Monte Vista Terrace Association is in favor.

Mary Johnson, applicant submitted a letter into the record and proceeded to state that after working with Mr. Jim Smith they felt the code was misinterpreted in this case.

Jim Smith, applicant began by giving definitions of the city code. He also gave his interpretation of the code in question. He also stated by reviewing his open records requests regarding the case he felt his interpretation was correct.

Ms. Ojeda entered the meeting at 1:55pm.

Stephanie Goldin, applicant explained that all city codes were followed and is confident this will be a benefit to the community.

Lisa Goldin, applicant, spoke on the history of the property and added many design features to the project that will make it a very desirable property.

The Following citizens appeared to speak.

Laura Gibson, 315 W. Ridgewood, spoke in favor.

Angie Peters, 225 Holland Ave, spoke in favor.

Sharon Garcia, 312 W. Norwood, spoke in favor.

Georgina Morton, 304 Norwood, yielded her time to Sharon Garcia.

Jill Jendry, 137 Vassar, spoke in favor.

Mary Guimbarda, 122 Vassar, yielded her time to Jill Jendry.

Mark Steinhelper, 116 E. Norwood, spoke in favor.

Philip Lloyd, 226 Messer, Place, yielded time to Mark Steinhelper.
Troy McCormick, 131 Melrose Place, yielded time to Mark Steinhelper.
James Bauman, 1024 W. Mistletoe, spoke in favor.
Gerald Davis Jr. 309 W. Norwood, spoke in opposition.
David Bogle, 723 W. French Place, spoke in favor.
Samantha McCormick, 131 Melrose, yielded her time to David Bogle.
Brody Alexandra, 1839 E. Pyron, spoke in favor.
Theresa Nino, 529 W. Elsmere Place, spoke in favor.
Paula Boundurant, 208 W. Craig, spoke in favor.
Harlon Kraft, 226 Melrose Place, spoke in favor.
Brenda Radford, 138 Melrose Place, spoke in favor.
Lisa Clarke, 220 Melrose Place, spoke in favor.
Anisa Schell, 430 E. Mistletoe, left meeting before speaking.
Steve Scales, 737 E. Woodlawn, left meeting before speaking.
Julia Grizzard, 258 Gazel Dr, spoke in favor.
David Wesson, 125 W. Ridgewood, spoke in favor.
Frank Lopez, 150 Vassor Lane, left meeting before speaking.

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-18-059 closed.

MOTION

A motion was made by **Dr. Zottarelli**, "Regarding Appeal No. A-18-059, a request for an appeal of the Director's decision on Unified Development Code Section 35-515(a): Buildings on a lot and Unified Development Code Section 35-517: Building Height, situated at 311 West Norwood Court, applicant being Mary Johnson.

I move that the Board of Adjustment grant the applicant's request for an appeal to the subject property as described above, because the testimony presented to us, and the facts that we have determined, show that the decision made by the administrative official was flawed in the interpretation of the Code and that the correct interpretation would have limited the development to no more than one principal structure and that the correct decision would also have applied the 50 foot spacing between the subject property and the adjacent residential uses.

Specifically, we find that:

That the applicant is correct in asserting that the intent of Section 35-515(a): Buildings on a Lot is to limit the number of principal **structures** to only one for any development type." The motion was seconded by **Mr. Oroian**.

AYES: None

NAYS: Dr. Zottarelli, Oroian, Britton, Rogers, Martinez, Neff, Finlay, Rodriguez, Teel, Kuderer

Abstained: Ojeda

THE MOTION FAILED

A motion was made by **Dr. Zottarelli**. "Regarding Appeal No A-18-059, a request for an appeal of the Director's decision on Unified Development Code Section 35-515(a): Buildings on a lot and Unified Development Code Section 35-517: Building Height, situated at 311 West Norwood Court, applicant being Mary Johnson.

I move that the Board of Adjustment grant the applicant's request for an appeal to the subject property as described above, because the testimony presented to us, and the facts that we have **determined, show that the decision made by the administrative official was flawed in the interpretation of the Code applied the 50 foot spacing between the subject property and the adjacent residential uses.**

Specifically, we find that:

That the applicant is correct in asserting that the intent of Section 35-517: Building Height is to require all commercial, multi-family, or office uses, when they abut single-family zoning districts, to provide a 50 foot spacing before they may exceed the height of the abutting single-family zone." **Mr. Oroian** seconded the motion.

AYES: Dr. Zottarelli, Rodriguez, Teel

NAYS: Oroian, Britton, Rogers, Martinez, Neff, Finlay, Kuderer

Abstained: Ojeda

THE MOTION FAILED

The Board of Adjustment convened for a 10 minute break at 4:40pm and reconvened at 4:50pm.

Case Number:	A-18-062
Applicant:	Rosemary Olivares Dodd
Owner:	Rosemary Olivares Dodd
Council District:	2
Location:	5314 IH-10 East
Legal Description:	The Southeast Irregular 168.9 Feet of Lot 12, Block 3, NCB 13904
Zoning:	"C-3 AHOD" General Commercial Airport Hazard Overlay District and "I-1 AHOD" General Industrial Airport Hazard Overlay District
Case Manager:	Dominic Silva, Planner

Request

A request for a portion of the required 15 foot Type B landscape buffer yard, as described in Section 35-510, to be relocated.

Dominic Silva, Planner, presented background, and staff's recommendation of the variance requests. He indicated 14 notices were mailed, 0 returned in favor, and 0 returned in opposition and no response from the East Gate Neighborhood Association.

Richard Gamez, representative gave a short history on the project and stated Ms. Dodd wished to demolish an addition and in exchange he would relocate buffer yards to meet the code and 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-18-062 closed.

MOTION

A motion was made by **Mr. Neff**. “Regarding Appeal No A-18-062, A request for a portion of the required 15 foot Type B landscape buffer yard to be relocated, applicant being Rosemary Olivares Dodd.

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 not contrary to the public interest. **The public interest is represented by the quantity of plantings required in a buffer yard to separate incompatible uses. The 15 foot buffer yard is not contrary to public interest as it does not negatively impact any surrounding properties or the general public.***
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*

Literal enforcement would not allow the re-development of the new building, as 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 will be observed as the proposed buffer yard will sufficiently screen the street and traffic from any visual clutter and will improve the existing streetscape.

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

The requested variances will not authorize the operation of a use on the subject property other than those specifically permitted in the “C-3 AHOD” General Commercial Airport Hazard Overlay District and “I-1 AHOD” General Industrial Airport Hazard

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

The request should not injure the rights of the neighboring properties as the introduction of a 15 foot buffer would only enhance the overall appearance of the site, streetscape, and neighborhood on the eastern side of 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 proposal includes well developed buffer yards, and accommodating the future re-development within the existing conditions of the 15 foot buffer yard requirement on southern side of the property restricts any future expansion and circulation for the business.” Mr. Martinez seconded the motion.

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

NAYS: None

THE VARIANCE IS GRANTED

Case Number:	A-18-058
Applicant:	Jennifer Gonzalez
Owner:	Myers Riverwalk Investments, LLC
Council District:	1
Location:	1500 North St. Mary’s Street & 405 West Jones Avenue
Legal Description:	Lot 1A 2A B2, Block G, NCB 997 & Lot E 126.2 FT. of C or A-14 & A-15, Block G, NCB 997
Zoning:	“FBZD T5-1 RIO-2 AHOD” Form Based Zone River Improvement Overlay Airport Hazard Overlay District
Case Manager:	Debora Gonzalez, Senior Planner

Request

A request for a special exception from the following Form Based Zone District design requirements: 1) to reduce the minimum required parking spaces from 75 to 40, 2) to increase the maximum lot coverage from 80% to 85%, 3) to waive the setback from 5 feet to zero feet, 4) to increase the maximum height of the principle building from four stories to five stories, and 5) to waive the required use of massing breaks.

Debora Gonzalez, Senior Planner, presented the background information, and staff’s recommendations. She indicated 19 notices were mailed, 0 returned in favor, 0 returned in opposition and no neighborhood association.

Summer Brakehouse, representative gave a history of the organization and examples of its record. They also stated they have the full support of the community and will be offering low income housing.

Jennifer Gonzalez, Executive Director Alamo Community Group, answered the Boards questions regarding low income housing.

Jim Bailey, Alamo Architects answered Right of Way questions from the Board.

The following citizens signed in but left before being called to speak.

Michael Wagner, 915 Dallas
Sarah Estrada, 915 Dallas
Cassandra Yareni, 915 Dallas
Chelsea Barque, 915 Dallas

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-18-058 closed.

MOTION

Dr. Zottarelli made a motion. "Regarding Appeal No A-18-058, a request for a special exception from the following Form Based Zone District design requirements: 1) to reduce the minimum required parking spaces from 75 to 40, 2) to increase the maximum lot coverage from 80% to 85%, 3) to waive the setback from 5 feet to zero feet, 4) to increase the maximum height of the principle building from four stories to five stories, and 5) to waive the required use of massing breaks, situated at 1500 North St. Mary's Street & 405 West Jones Avenue, applicant being Jennifer Gonzalez.

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

Specifically, we find that:

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

The requested special exceptions will be in harmony with the spirit of purpose of the chapter because each request seeks to make slight modifications, based upon the context in which the project is located, to fulfill a public interest, being the need for affordable housing options.

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

In this case, the public welfare will be substantially served by design requirements intended to provide for consistent development within the Form Based Zoning area,

and to discourage parking as a primary use within the zoning area. Due to the nature of the proposed multi-family project it well served by transit, and because the scale of the project exceeds the typical development within this FBZD area, staff finds that permitting the special exceptions are warranted and are not contrary to the public interest.

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

The special exceptions of the proposed multi-family project are highly unlikely to injure adjacent properties. Nearby properties already benefit from much of what the applicant is seeking from the Board.

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 applicant borders with "FBZD T5-1" properties; the special exceptions of the proposed multi-family project do not detract from the character of the neighborhood.

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

The subject property is located within the "FBZD T5-1" Form Based Zoning River Improvement Overlay District, which permits a wide variety of housing options. It is difficult to establish how the proposed multi-family project weakens the purpose of the Form Based Zone District." Mr. Rodriguez seconded the motion.

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

NAYS: None

SPECIAL EXCEPTION IS GRANTED

The Board of Adjustment convened at 5:45pm for dinner and reconvened at 6:00pm. Mr. Britton did not return to the meeting.

Case Number:	A-18-056
Applicant:	Mark Cloud
Owner:	Mark Cloud
Council District:	10
Location:	3526 Barrington Street
Legal Description:	Lot 11, Block 1, NCB 14086
Zoning:	"NP-15 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 eight foot eight inch tall privacy fence along the west property line in the rear yard and 2) a special exception, as described in Section 35 -514, to allow an eight foot two inch tall privacy fence in a portion of the front yard of the property.

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

Mark Cloud, applicant gave a power point presentation and examples of other houses in the neighborhood similar to his request. He stated the bare fence was temporary until he plants shrubbery to grow over it and then it will blend into the property.

The following citizens appeared to speak.

Luther Soules, 3606 Barrington, spoke in opposition.

Andrea Soules, 3606 Barrington, yielded time to Luther Soules.

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-18-056 closed.

MOTION

A motion was made by **Mr. Martinez**. "Regarding Appeal No A-18-056, a request **1) a special exception to allow a 8 foot tall privacy fence along the *side* property line in the rear yard**, situated at 3526 Barrington Street, applicant being Mark Cloud.

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 an eight foot eight inch tall privacy fence along the west property line in the rear and the eight foot two inch tall privacy fence in a portion of the front yard of the property are in harmony with the spirit and purpose of the chapter as both fences are intended to provide privacy of the applicant

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

Allowing the applicant to keep both fences on the front and side of the property will help create a private 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 both fences will enhance privacy for the subject property and is highly unlikely to injure adjacent properties. Further, neither fence interferes 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.*

Neither fence would significantly alter the overall appearance of the district; both fences 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 property is located within the “NP-15” Neighborhood Preservation Family District and permits the current use of a single-family home. Therefore, the requested special exceptions will not weaken the general purpose of the district.”
The motion was seconded by Mr. Neff.

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

NAYS: None

THE SPECIAL EXCEPTION IS GRANTED

A motion was made by Mr. Martinez. “Regarding Appeal No A-18-056, a request 2) **a special exception to allow an 6 foot two inch tall privacy fence in a portion of the front yard of the property**, situated at 3526 Barrington Street, applicant being Mark Cloud.

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 an eight foot eight inch tall privacy fence along the west property line in the rear and the eight foot two inch tall privacy fence in a portion of the front yard of the property are in harmony with the spirit and purpose of the chapter as both fences are intended to provide privacy of the applicant

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

Allowing the applicant to keep the front fence on the front and side of the property will help create a private 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 front fence will enhance privacy for the subject property and is highly unlikely to injure adjacent properties. Further, neither fence interferes 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.*

Neither fence would significantly alter the overall appearance of the district; the front fence 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 property is located within the “NP-15” Neighborhood Preservation Family District and permits the current use of a single-family home. Therefore, the requested special exceptions will not weaken the general purpose of the district. The motion was seconded by Mr. Oroian.

AYES: Oroian, Neff, Rodriguez, Teel, Finlay, Dr. Zottarelli, Rogers, Kuderer

NAYS: Martinez, Ojeda

THE SPECIAL EXCEPTION FAILS

Case Number:	A-18-061
Applicant:	Paul D. Palacio
Owner:	Paul D. Palacio
Council District:	5
Location:	806 West Theo
Legal Description:	Lot 91, Block 22, NCB 3465
Zoning:	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District
Case Manager:	Dominic Silva, Planner

Request

A request for a thirteen foot variance, as described in Section 35-510.01, to allow an attached garage to be seven feet from the rear property line.

Dominic Silva, Planner, presented background information, and staff’s recommendation of the variance requests. He indicated 30 notices were mailed, 0 returned in favor, 0 returned in opposition and no neighborhood association.

Paul D. Palacios, applicant, stated he wished to build a carport in keeping with the design of his garage. He 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-18-061 closed.

A motion was made by **Mr. Rodriguez**. "Regarding Appeal No A-18-061, A request for a 13 foot variance to allow an attached garage to be seven feet from the rear property line, applicant being Paul D. Palacio.

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 not contrary to the public interest.*

The public interest is the health, safety and welfare of the public, including the protection of vehicles from weather, theft, or harm.

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 rear setback limitations which would minimize the amount of developable space within the property for any future additions.

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 of protection of vehicles under adequate shelter. If granted, the spirit of the ordinance will be observed in that the applicant is able to utilize space efficiently and provide protection to personal property.

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

The requested variance will not permit a use not authorized within 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 requested variance will not injure the appropriate use of adjacent properties or alter the essential character of the neighborhood as the garage is highly unlikely to be visible from the side, rear, or front of the property due to the privacy fence. Further, the proposed structure 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 property having limited space to develop within the rear of the property.” Mr. Martinez seconded the motion.

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

NAYS: None

THE VARIANCE IS GRANTED

Case Number:	A-18-063
Applicant:	Orange Bison Enterprises, LLC
Owner:	Orange Bison Enterprises, LLC
Council District:	1
Location:	110 Kearney Street
Legal Description:	Lot E, Block 2, NCB 3035
Zoning:	“RM-4 NCD-1 AHOD” Residential Mixed South Presa/South St. Mary’s Neighborhood Conservation Airport Hazard Overlay District
Case Manager:	Dominic Silva, Planner

Request

A request for 1) a 5’7” inch variance from the median blockface front setback, as described in the South Presa/South St. Mary’s Neighborhood Conservation design guidelines, to allow the front setback of the dwelling to be 7’6” and 2) a 3’4” variance from the 5’ side setback requirement, as described in Section 35-310.01, to allow the east side setback of the dwelling to be 2’8” and 3) a 2’4” variance from the 5’ rear setback, as described in Section 35-370.02, for a detached garage to be 2’8” from the rear property line.

Dominic Silva, Planner, presented background information, and staff’s recommendation of the variance request. He indicated 37 notices were mailed, 1 returned in favor, 0 returned in opposition and no response from the Lavaca Neighborhood Association.

Tom Stamp, representative stated the owner wants to rebuild the structure after an act of God destroyed it. After further discussion Mr. Stamp stated he wanted to build a three story structure in its place.

The following citizens appeared to speak.

Andy Talamantez – 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-18-063 closed.

MOTION

A motion was made by **Mr. Teel**. “Regarding Appeal No A-18-063, A request for a 1) a 5’7” inch variance from the South St. Mary’s/South Presa Neighborhood Conservation District median blockface front setback to allow the front setback of the dwelling to be 7’6” and 2) a 3’4” variance from the 5’ side setback requirement to allow the east side setback of the dwelling to be 2’8” and 3) a 2’4” variance from the 5’ rear setback to allow a detached garage to be 2’8” from the rear property line, applicant being Orange Bison Enterprises, LLC.

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 not contrary to the public interest.*

The variances are not contrary to the public interest as the structure provides room for maintenance, will not create water runoff on the adjacent property, and will not injure the rights of the adjacent property owners.

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

Literal enforcement would not allow the re-building of the structure as it once was leaving the property with minimal developable space.

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 setbacks will still provide for a safe development pattern. The variance requests provide fair and equal access to air and light, and provide for adequate fire separation. Further, it will allow the redevelopment of the property in the previous footprint.

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

The requested variances will not authorize the operation of a use on the subject property other than those specifically permitted in the “RM-4 NCD-1 AHOD” Residential Mixed South Presa/South St. Mary’s 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 request will not injure the rights of the neighboring properties as the applicant is proposing to re-build the structure within the same footprint as the previous 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 unique circumstances existing on the property are due to the size the lot.” Mr. Oroian seconded the motion.*

Mr. Martinez made a friendly Amendment and only consider request #3. Mr. Teel accepted the amendment and withdrew his original request.

Mr. Teel made a motion to consider only item 3) a 2’4” variance from the 5’ rear setback to allow a detached garage to be 2’8” from the rear property line, applicant being Orange Bison Enterprises, LLC. Mr. Oroian seconded the motion.

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

NAYS: None

THE VARIANCE IS GRANTED.

Mr. Kuderer asked for a motion to consider items 1 & 2 for Item A-18-063. No Motion was made item dies due to a lack of a motion.

Case Number: A-18-057
Applicant: Joel D. Shoemaker
Owner: Joel D. Shoemaker
Council District: 7
Location: 530 Overhill Drive
Legal Description: Lot 72, Block 8, NCB 9652
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 setback, as described in Section 35-370, to allow a garage to be one foot away from the side property line.

Debora Gonzalez, Senior Planner, presented background information, and staff’s recommendation of the variance request. She indicated 31 notices were mailed, 2 returned in

favor, 0 returned in opposition and no response from the University Park Neighborhood Association.

Joel D. Shoemaker, stated due to all the hail damage he has received the last few years, he decided to purchase his garage to protect his vehicles. He apologized for not getting a permit in advance, answered all the Boards questions and asked for approval.

No citizens appeared to speak.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-18-057 closed.

MOTION

A motion was made by **Mr. Martinez**. "Regarding Appeal No A-18-057, a request for a four foot variance from the five foot side setback to allow a garage to be one foot away from the side property line, situated at 530 Overhill Drive, applicant being Joel D. Shoemaker

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 served by setbacks, which help to provide consistent development within the City of San Antonio. The applicant is seeking a variance to allow the garage to be one foot from the west side property line. The one foot side setback is not contrary to public interest as it does not negatively impact any surrounding properties or the general public.

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

Literal enforcement would not allow the applicant to keep the garage as built. Approval of the requested variance would provide adequate room for maintenance and would provide better separation for fire spread and rainwater runoff.

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

The spirit of the ordinance is the intent of the code, rather than the strict letter of the law. The intent of the code is to provide for consistent development and to establish room for maintenance, and to reduce the threat of fire spread. The request to keep the garage one foot away from the side setback observes the intent of the code.

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

The variance will not authorize the operation of a use other than those uses specifically authorized by 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 request should not injure the rights of the neighboring properties as the garage would allow the structure at one foot, which would address the concerns related to maintenance and drainage.*
6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located. The existing garage has a one foot side setback which does not impose any immediate threat of water runoff or fire spread on adjacent properties.” Mr. Rodriguez seconded the motion.*

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

NAYS: None

THE VARIANCE IS GRANTED.

Case Number: A-18-027
Applicant: Joel Hernandez
Owner: Joel Hernandez
Council District: 7
Location: 8711 Abe Lincoln
Legal Description: Lot 25, Block K, NCB 14663

Zoning: “RE AHOD” Residential Estate 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 an eight foot tall solid screen fence in the rear and side yard.

Ms. Rogers made a motion to deny case A-18-027 due to the applicant being a no-show to the third meeting in a row. **Ms. Ojeda** seconded the motion.

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

MOTION APPROVED TO DENY

Mr. Kuderer made a motion to approve the March 19, 2018 minutes with all members voting in the affirmative.

Manager's report: None

There being no further discussion, meeting adjourned at 8:25 p.m.

APPROVED BY:  OR _____
Chairman Vice-Chair

DATE: 4/18/18

ATTESTED BY:  DATE: 4/18/18
Executive Secretary