

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
October 19, 2015**

Members Present:

John Kuderer
Frank Quijano
Alan Neff
Jeffrey Finlay
George Britton
Maria Cruz
Jesse Zuniga
Christopher Garcia
Roger Martinez
Gene Camargo
Henry Rodriguez

Staff:

Catherine Hernandez, Planning Manager
Margaret Pahl, Senior Planner
Kristen Flores, Planner
Paul Wendland, City Attorney

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.

CASE NO. A-15-160

Applicant – Doggett Freightliner of South Texas, LLC
Lot 2, Block 1, NCB 17997
8700 IH 10 East
Zoning: “I-1 AHOD” Industrial Airport Hazard Overlay District

The applicant is requesting a 22 foot variance from the minimum 150 ft spacing, as described in Section 28-241(c)(1), to allow two signs to be 128 feet apart.

Margaret Pahl, Senior Planner, presented the background and staff’s recommendation of the variance. She indicated 5 notices were mailed, 1 returned in favor, and 0 returned in opposition

Representative, requesting the variance to allow a second sign to identify the business.

Dennis Attard, Chief Inspector, recommended 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-15-160 closed.

MOTION

The motion was made by **Mr. Neff**. "Re: Appeal No.: A-15-160 Application for a 22 foot variance from the minimum 150 ft spacing to allow two signs to be 128 feet apart, Subject Property Description Lot 2, Block 1, NCB 17997, located at 8700 IH 10 East, Applicant: Doggett Freightliner of South Texas, LLC

"I move that the Board of Adjustment grant the applicant's request, 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 Chapter 28 Sign Code, as amended, would result in an unnecessary hardship."

Specifically, we find that the variance is necessary because strict enforcement of this article prohibits any reasonable opportunity to provide adequate signs on the site in that **the proposed signage is important to allow the owner to advertize the business name. The existing signage satisfies the requirements of the franchise to carry certain brands of semi-trucks.**

AND

The board finds that:

- a. Granting the variance does not provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated in that; **Multiple signs are allowed for every business, with 150 feet spacing. The existing sign advertizes Freightliner, the brand of trucks, but does not assist the customer in knowing how to contact the owner of the business.**
- b. Granting the variance will not have a substantially adverse impact upon neighboring properties in that **the ordinance intends to protect the public from over-crowding of signage, and provides businesses opportunity to advertise. The proposed variance will allow the sign to be 128 feet from the existing sign and still have orientation toward the truck traffic on the freeway. and**
- c. Granting the variance will not substantially conflict with the stated purposes of this article in that **the requested variance does not conflict with the stated purpose of this chapter as the request is a minor deviation from the requirement and provides the owner an opportunity to advertize the company's name. Additionally, the variance will be hardly noticeable to passersby."** The motion was seconded by **Mr. Zuniga.**

AYES: Neff, Zuniga, Quijano, Britton, Cruz, Martinez, Camargo, Rodriguez, Garcia, Finlay, Kuderer

NAYS: None

THE VARIANCE IS GRANTED.

CASE NO. A-15-139

Case will be continued to November 2, 2015 Board of Adjustment hearing.

CASE NO. A-15-165

Applicant – Leon Capital Group
Lots 21, 22 & 23, Block 34, NCB 9073
1251 Austin Hwy, 1253 Austin Hwy & 1255 Austin Hwy
Zoning: “C-2 MC-3 AHOD” Commercial Austin Highway / Harry Wurzbach
(TAPS Memorial Boulevard) Metropolitan Corridor Overlay Airport
Hazard Overlay District

The applicant is requesting 1) a 24 foot variance from the maximum 40 foot front setback to allow 3 buildings setback 64feet; 2) a 2.5 foot variance from the minimum 20 foot side setback to allow a building 17.5 feet from the property line; and 3) a 10 foot variance from the minimum 10 foot buffer yard required alongside property lines, each as described in 35-339.01 to allow shared internal circulation for three new buildings.

Margaret Pahl, Senior Planner, presented the background and staff’s recommendation of the requested variances. She indicated 27 notices were mailed, 1 returned in favor, 0 returned in opposition, and no response from the Terrell Heights Neighborhood Association.

Chris Gutierrez, representative, stated the reason for the requested variances is to develop the retail side of the property with quality development.

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-15-165 closed.

MOTION

A motion was made by **Mr. Garcia**. “Regarding Appeal No. A-15-165, application for 1) a 24 foot variance from the maximum 40 foot front setback to allow 3 buildings setback 64 feet; 2) a 2.5 foot variance from the minimum 20 foot side setback to allow a building 17.5 feet from the property line; and 3) a 10 foot variance from the minimum 10 foot buffer yard required alongside property lines to allow shared internal circulation for three new buildings. Subject property description Lots 21, 22 & 23, Block 34, NCB 9073, situated at 1251 Austin Hwy, 1253

Austin Hwy & 1255 Austin Hwy, applicant being Leon Capital Group, as illustrated in the staff report.

"I move that the Board of Adjustment grant the applicant's request 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) "Such variance will not be contrary to the public interest" in that **the requested variances will allow for orderly internal circulation as vehicles support one or more of the businesses in this combined center. Landscaping will be installed on the perimeter, as if the site were a single lot, making the variance not contrary to the public interest, and is not arising any safety issues.**
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that **the shared driveway forces vehicles to enter the site between two buildings, requiring a two way internal driveway between the public right of way and the buildings. In addition, installing landscaping along each of the three shared internal property lines would prevent cross access.**
- 3) "The spirit of the ordinance is observed and substantial justice is done" in that **The corridor design guidelines envisioned each lot functioning separately, rather than sharing entrance points and internal circulation. The proposed redevelopment of the site, and its landscaping will observe the spirit of the ordinance.**
- 4) "Such variance will not authorize the operation of a use other than those specifically permitted in the "C-2 MC-3 AHOD" Commercial Austin Highway/Harry Wurzbach Metropolitan Corridor Airport Hazard Overlay District.
- 5) "Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located" in that **the district is in a state of redevelopment and the proposed site plan improvements will enhance the character of the area. Other than the enlarged setback, the buildings will comply with all other design overlay requirements.**
- 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" in that **According to the applicant, the site has existing utility easements which restrict design options and create challenges for satisfying the requirements of the overlay.**" The motion was seconded by Mr. Camargo.

AYES: Garcia, Camargo, Quijano, Neff, Britton, Cruz, Zuniga, Martinez, Rodriguez, Finlay, Kuderer

NAYS: None

THE VARIANCES ARE GRANTED.

CASE NO. A-15-156

Applicant – Chrispark, LLC
Lot 10, Block 5, NCB 2554
121 Camp Street
Zoning: “C-3 NA AHOD” General Commercial Non-Alcoholic Sales Airport
Hazard Overlay District

The applicant is requesting a 2 foot variance from the maximum 6 foot fence height, as described in Section 35-514 (d), to allow an 8 foot fence around a private park area.

Kristin Flores, Planner, presented background, and staff’s recommendation of the variance. She indicated 11 notices were mailed, 3 returned in favor, and 0 returned in opposition.

Trey Jacobsen, representative, presented power point of information on the company and the property. Stated the reason for the variance is to protect the property.

Chris McKnight, Facility Manager for the Pace Foundation, stated the hours of operations.

The following citizens appeared to speak:

George Pena, concerned with the park’s privacy issues.

Orlando Rangel, 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-15-156 closed.

MOTION

A motion was made by **Mr. Martinez**. “Regarding Appeal No. A-15-156, variance application for a 2 foot variance from the maximum 6 foot fence height to allow an 8 foot fence around a private park area, subject property description Lot 10, Block 5, NCB 2554, situated at 121 Camp Street, applicant being Chrispark, LLC.

“I move that the Board of Adjustment grant the applicant’s request 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) "Such variance will not be contrary to the public interest" in that **the proposed fence will serve to provide a unified look, provide an enhanced amenity for the public, and increase security of the property.**
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that **while this park is open to the public most days of the week, it is privately owned and ensuring the protection of this property is valid.**
- 3) "The spirit of the ordinance is observed and substantial justice is done" in that **the additional fence height is intended to provide safety, security, and the privacy of the applicant.**
- 4) "Such variance will not authorize the operation of a use other than **those specifically permitted in the "C-3 NA AHOD" General Commercial Non-Alcoholic Sales 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" in that **the property is located in an area with many other eight foot fences. The proposed fence would be in keeping with the character of the community and in character with the current park.**
- 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" in that **the unique circumstance on this property is the need to increase security and privacy of the property. This is not merely financial and was not created by the property owner.**" The motion was seconded by Mr. Camargo.

AYES: Martinez, Camargo, Quijano, Neff, Britton, Cruz, Zuniga, Rodriguez, Garcia, Finlay, Kuderer

NAYS: None

THE VARIANCE IS GRANTED.

CASE NO. A-15-157

Applicant – David Goldstein

Lot 27 and SW 5.8 ft of Lot 28, NCB 11673

4131 Cliff Oaks

Zoning: "MF-33 PUD AHOD" Multi-Family Residential Planned Unit
Development Airport Hazard Overlay District

The applicant is requesting a 2 foot variance from the maximum 6 foot fence height, as described in Section 35-314(d), to allow an 8 foot wall in the rear yard.

Kristin Flores, Planner, presented background and staff's recommendations of the requested variance. She indicated 21 notices were mailed, 4 returned in favor, and 0 returned in opposition.

Valintin Pina, representative, stated the reason for the request is for privacy.

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-15-157 closed.

MOTION

A motion was made by **Mr. Rodriguez**. "Regarding Appeal No. A-15-157, application for 2 foot variance from the maximum 6 foot fence height, to allow an 8 foot wall in the rear yard, subject property description Lot 27 and SW 5.8 ft of Lot 28, NCB 11673, situated at 4131 Cliff Oaks, applicant being David Goldstein.

"I move that the Board of Adjustment grant the applicant's request 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) "Such variance will not be contrary to the public interest" in that **this neighborhood has significant sloping topography which has caused the applicant's backyard to be situated slightly above neighboring property. The proposed fence will serve to provide increased privacy and security of the property.**
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that **the sloping topography in the neighborhood and the close proximity of the homes in the neighborhood result in a unusual lack of privacy.**
- 3) "The spirit of the ordinance is observed and substantial justice is done" in that **the additional fence height is necessary to provide safety, security, and privacy of the applicant.**
- 4) "Such variance will not authorize the operation of a use other than those specifically permitted in the **"MF-33 PUD AHOD" Multi-Family Residential Planned Unit Development 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" in that **this PUD has many homes located in close proximity to one another with many other eight foot fences. The proposed fence would be in keeping with the character of the community.**
- 6) "The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located" in that **this property includes vastly sloping topography. This is not merely financial and was not created by the property owner.**" The motion was seconded by **Mr. Garcia**.

AYES: Rodriguez, Garcia, Quijano, Neff, Britton, Cruz, Zuniga, Martinez, Camargo, Finlay, Kuderer

NAYS: None

THE VARIANCE IS GRANTED.

2:23 p.m. Board members recessed for 7 minutes.

CASE NO. A-15-155

Applicant – Stephen Stokinger, P.E.

Lot 16 and W 104.16 ft of Lot 10, Block 19, NCB 546

525 Nolan Street

Zoning: “R-4 AHOD” Residential Single-Family Airport Hazard Overlay District

The applicant is requesting a 1 foot variance from the minimum 5 foot side yard setback, as described in Section 35-310.01, to allow a new home 4 feet from the side property line.

Margaret Pahl, Senior Planner, presented the background and staff’s recommendation for the variance. She indicated 29 notices were mailed, 2 returned in favor, 0 returned in opposition and no response from the Dignowity Hill Neighborhood Association.

Steven Stokinger, applicant, stated the reason for the request is to allow new construction for two (2) new homes.

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-15-155 closed.

MOTION

A motion was made by **Mr. Finlay**. “Regarding Appeal No. A-15-155, variance application for a 7.7 foot variance from the minimum 50 foot lot width, subject property description Lot 16 and W 104.16 ft of Lot 10, Block 19, NCB 546 situated at 525 Nolan Street, applicant being Stephen Stokinger, P.E.

“I move that the Board of Adjustment grant the applicant’s request 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) "Such variance will not be contrary to the public interest" in that **the public interest is represented by lot width requirements to facilitate a cohesive development pattern. The shared access will allow mitigate any perceived change in the pattern, making the variance not contrary to public interest.**
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that **_the lots were large when platted, providing huge backyards for farming. As lifestyles have changed, these rear areas become overgrown and finding access is difficult. Therefore this unique circumstance makes literal enforcement an unnecessary hardship.**
- 3) "The spirit of the ordinance is observed and substantial justice is done" in that **the requested variance is small and, when used as a shared access, observes the spirit of the code.**
- 4) "Such variance will not authorize the operation of a use **other than those specifically permitted in the "R-6 H AHOD" Residential Single-Family Dignowity 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" in that **the requested variance will allow a subdivision for a new home site that can be individually owned. The shared access will retain the driveway spacing and development pattern, retaining 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" in that **the requested lot width variance will be indiscernible to the passerby because the two lots will share the driveway.**" The motion was seconded by Mr. Neff.

AYES: Finlay, Neff, Quijano, Britton, Cruz, Zuniga, Martinez, Camargo, Rodriguez, Garcia, Kuderer

NAYS: None

THE VARIANCE IS GRANTED.

CASE NO. A-15-158

Applicant – Dahlia Castillo

Lot 22, Block 27, NCB 12553

8434 Republic Drive

Zoning: "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District

The applicant is requesting for variance from the maximum 50% impervious coverage, as described in Table 35-515-1, to allow the front yard to be 70% impervious.

Margaret Pahl, Senior Planner, presented the background and staff's recommendation of the variance. She indicated 21 notices were mailed, 1 returned in favor, and 0 returned in opposition. The Zoning Committee of the Shearer Hills/Ridgeview Neighborhood Association is in opposition.

Dahlia Castillo, applicant, stated she hired a contractor and no permit was applied to the project. The need for the large driveway is due to her husband's disability.

George Castillo, applicant, stated the need for the driveway is for the ease of his family to load and unload himself.

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-15-158 closed.

A motion was made by **Mr. Camargo**. "I move that in case No. A-15-158, application for a variance from the maximum 50% impervious coverage, to allow the front yard to be 70% impervious, subject property description Lot 22, Block 27, NCB 12553, situated at 8434 Republic Drive, applicant being Dahlia Castillo.

We find the following facts:

- 1) "Such variance will not be contrary to the public interest" in that **the original driveway was in a state of disrepair, and from notices that were sent to adjacent property owners, we received limited opposition returned in this particular case.**
- 2) "Due to special conditions existing, and with his family, **in that the former driveway was in bad condition, and the owner of the property, being disable, needed to have a substantial firm leveled drive way, this particular driveway was needed.**
- 3) "The spirit of the ordinance is observed in **that the new driveway allow the owner room to exercise and get in and out of the dialysis van.**
- 4) "Such variance will not authorize the operation of a use other than those specifically permitted in the **"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District.**
- 5) **A particular importance in this case is that the applicant has been very truthful and forward in their presentation, and the fact that she hired a contractor, which from the description she gave, seems to be a licensed contractor, whom she depended to take the necessary steps in obtaining permits, which he did not, and now they find themselves in this situation.**

- 6) The driveway does not negatively impact the adjacent property, and finally this driveway is for personal use, allowing the applicant to exercise in the open space." The motion was seconded by Mr. Zuniga.

AYES: Camargo, Zuniga, Quijano, Neff, Britton, Cruz, Martinez, Rodriguez, Garcia, Finlay, Kuderer

NAYS: None

THE VARIANCE IS GRANTED.

CASE NO. A-15-159

Applicant – Ricardo Renteria

South 75 ft. of Lot 28, Block 1, NCB 7596

111 Mebane

Zoning: "MF-33 AHOD" Multi-Family Residential Airport Hazard Overlay District

The applicant is requesting for 1) a 15 foot variance from the minimum 20 foot rear setback, as described in Section 35-310.01; and 2) a 250 square foot variance from the minimum 4,000 square foot lot area, as described in Section 35.310.01, to allow a new home 5 feet from the rear property line on a 3,750 square foot lot.

Kristin Flores, Planner, presented the background and staff's recommendation of the variances. She indicated 25 notices were mailed, 1 returned in favor, 0 returned in opposition.

Rene LaFuente, representative, explained permits were applied for, but turned down because of the minimum setbacks. The representative presented a Certificate of Determination to the Board.

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-15-159 closed.

MOTION

A motion was made by **Mr. Neff**. "Regarding Appeal No. A-15-159, variance application for 1) a 15 foot variance from the minimum 20 foot rear setback and 2) a 250 square foot variance from the minimum 4,000 square foot lot area to allow a new home 5 feet from the rear property line on a 3,750 square foot lot subject property description South 75 ft. of Lot 28, Block 1, NCB 7596 situated at 111 Mebane, applicant being Ricardo Renteria.

"I move that the Board of Adjustment grant the applicant's request 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) "Such variance will not be contrary to the public interest" in that **only a small portion of the home, approximately 153 square feet will be five (5) feet from the rear property line. This is less than the eight hundred (800) square feet permitted by right for an accessory dwelling unit. Accessory dwelling units are permitted to be five (5) feet from the property line.**
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that the variance allows **the applicant to preserve a large, irreplaceable pecan tree.**
- 3) "The spirit of the ordinance is observed and substantial justice is done" in that **the lot included a house according to the 1952 Sanborn maps and the rear yard variance will allow a large heritage tree to remain.**
- 4) "Such variance will not authorize the operation of a use other than **those specifically permitted in the "MF-33 AHOD" Multi-Family Residential 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" in that **allowing a new addition to the housing stock will not substantially injure adjacent property or alter the essential character of the neighborhood.**
- 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 in that the **circumstance on this property is the previous illegal subdivision of the lot and the desire to preserve a large pecan tree. This is not merely financial and was not created by the property owner.**" The motion was seconded by Ms. Cruz.

AYES: Neff, Cruz, Quijano, Britton, Zuniga, Martinez, Camargo, Rodriguez, Garcia, Finlay, Kuderer

NAYS: None

THE VARIANCES ARE GRANTED.

CASE NO. A-15-162

Applicant – Luis Gerlein

Lots 83 & 84, NCB 11888

414 Everest Avenue and 1603 West Terra Alta

Zoning: "R-3 AHOD" Residential Single-Family Airport Hazard Overlay

District

The applicant is requesting for 1) a variance from the requirement to dedicate parks and open space as described in Section 35-310.05b(5); 2) a 2 foot 4 inch variance from the minimum lot depth of 75 feet as described in Section 35-310.05b(3f); and 3) a 10 foot variance from the maximum 12 foot driveway width, as described in Section 35-310.05b(8b), to allow 7 new lots with 3,200 square feet and 2 car garages.

Kristin Flores, Planner, presented background and staff's recommendations of the requested variances. She indicated 17 notices were mailed, 0 returned in favor, and 1 returned in opposition.

Luis Gerlein, applicant, explained the reason for the request is to re-plat the vacant lots, as presented on the site plan.

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-15-162 closed.

MOTION

A motion was made by **Mr. Quijano**. Regarding Appeal No. A-15-162, application for 1) a variance from the requirement to dedicate parks and open space; 2) a 2 foot 4 inch variance from the minimum lot depth of 75 feet; and 3) a 10 foot variance from the maximum 12 foot driveway width, to allow 7 new lots with 3,200 square feet and 2 car garages subject property description Lots 83 & 84, NCB 11888, situated at 414 Everest Avenue and 1603 West Terra Alta, applicant being Luis Gerlein.

"I move that the Board of Adjustment grant the applicant's 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) "Such variance will not be contrary to the public interest" in that **the "R-3" single family residential development standards are established to provide small lot infill development. The requested variances are not contrary to the public interest.**
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that project is in **close proximity to a school park and the additional development requirement to include 500 contiguous square feet of open space with the boundaries of the rear yard adequately accommodate open space needs. Literal enforcement of lot depth is unnecessary because lot width is approximately twice the required size. The special condition for approval of an increased driveway**

width is an accommodation to provide access to the required minimum of two (2) parking spaces per dwelling unit.

- 3) **"The spirit of the ordinance is observed and substantial justice is done" in that elimination of the requirement to dedicate parks and open space is countered by the close proximity to a school park and open space required in the rear yard of each home. The additional lot width affords additional space lost by the limited lot depth. Providing access to the required minimum of two (2) parking spaces is a reasonable request. Therefore, the requested variances observe the spirit of the code.**
- 4) **"Such variance will not authorize the operation of a use other than those specifically permitted in the "R-3 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" in that the surrounding neighborhood is being developed as a mix of multi-family and single family residences. The properties directly to the East and West are both multi-family residences.**
- 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 including close proximity to a school park. The motion was seconded by Mr. Zuniga.**

AYES: Quijano, Zuniga, Neff, Britton, Cruz, Martinez, Camargo, Rodriguez, Garcia, Finlay, Kuderer

NAYS: None

THE VARIANCES ARE GRANTED.

CASE NO. A-15-161

Applicant – Yolanda Rodriguez

Lots 6 & 7, Block 1, NCB 3381

2011 Probandt Street

Zoning: "NC AHOD" Neighborhood Commercial Airport Hazard Overlay District

The applicant is requesting for 1) a 20 foot variance from the minimum 30 foot rear yard setback as described in Table 35-310-1; 2) a five foot variance from the minimum 15 foot side and rear buffer yard as described in Table 35-510; 3) a variance from the 15 foot maximum front setback; 4) a five foot variance from the minimum ten foot side yard setback, both found in Table 35-310-1; and 5) a variance from the requirement that parking be located behind the principal structure as described in 35-310.08.

Margaret Pahl, Senior Planner, presented background and staff's recommendations of the requested variances. She indicated 22 notices were mailed, 1 returned in favor, and 0 returned in opposition.

Willie Garza, interpreter for Yolanda Rodriguez, explained the reason for the request is to improve the property for future business use.

The following citizens appeared to speak:

Richard Narvael, 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-15-161 closed.

MOTION

A motion was made by **Mr. Camargo**. I move that in No. A-15-161, the applicant being Yolanda Rodriguez, requesting for 1) a 20 foot variance from the minimum 30 foot rear yard setback; to allow a 10 foot setback 2) a five foot variance from the minimum 15 foot side and rear buffer yard be waived; 3) a variance from the 15 foot maximum front setback; 4) a five foot variance from the minimum ten foot side yard setback; and 5) a variance from the requirement that parking be located behind the principal structure, subject property description Lots 6 & 7, Block 1, NCB 3381, situated at 2011 Probandt Street.

Specifically, we find that:

- 1) "Such variance will not be contrary to the public interest" in that **notices were mailed to the adjacent properties, and as indicated by the applicant's representative, there have been discussions with the adjacent property owners, which could be the reason why we did not receive any negative responses.**
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship." **The unnecessary hardship seen in this particular case is the fact, that the surrounding zoning classifications and uses within 200 feet are commercial uses, and Commercial District uses would be appropriate.**
- 3) "The spirit of the ordinance is observed and substantial justice is done" **if these variances are granted.**
- 4) "Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the subject property is located."
- 5) "Such variance will not substantially injure the appropriate use of adjacent conforming property. **The immediate adjacent property to the north is zoned by the applicant, the property owner to the west, which is Single-Family has not opposed it, there is Commercial Zoning immediately across the street, there is a non-residential use Church within 200 feet, among other Commercial Uses. It is not an incompatible use in this area.**

- 6) "The plight of the owner of the property for which the variance is sought is due to unique circumstances. **The unique circumstances initially noted is the fact the irregular shaped lot, and if it is developed and if the variance passes, I hope the traffic division will work closely with the applicant, because Probandt is a fast, busy street.** The motion was seconded by Mr. Martinez.

AYES: Camargo, Martinez, Cruz, Rodriguez, Garcia, Finlay, Kuderer

NAYS: Quijano, Neff, Britton

ABSTAINED: Zuniga

THE VARIANCES FAILED. PASSED AS DENIAL.

4:52 p.m. Board members recessed for 5 minutes.

Consideration and recommendation of the UDC Amendments presented as part of the 5-year update program. All Amendments receiving a favorable recommendation from the PCTAC.

MOTION

A motion was made by **Ms. Cruz** to approve the UDC Amendments presented as part of the 5-year update program. . The motion was seconded by **Mr. Martinez**.

AYES: Cruz, Martinez, Quijano, Neff, Britton, Cruz, Zuniga, Camargo, Rodriguez, Garcia, Finlay, Kuderer

NAYS: None

THE MOTION PASSED

Mr. Kuderer made a motion to approve the October 5, 2015 minutes with all members voting in the affirmative.

There being no further discussion, meeting adjourned at 5:08 pm.

APPROVED BY: Mary E. Rozen OR _____
Chairman Vice-Chair

DATE: 11-16-15

ATTESTED BY: Melanie King DATE: 11/16/15
Executive Secretary