

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
April 11, 2016**

Members Present:

Mary Rogers
Frank Quijano
Alan Neff
Maria Cruz
Jesse Zuniga
Christopher Garcia
John Kuderer
Roger Martinez
Jeffrey Finlay
Henry Rodriguez

Staff:

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

Call to Order

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

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

CASE NO. A-16-067

Logan Sparrow, Planner, stated the applicant is requesting a continuance to May 9, 2016.

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-16-067 closed.

MOTION

A motion was made by **Mr. Martinez** for a continuance to May 9, 2016. The motion was seconded by **Mr. Kuderer**.

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

NAYS: None

THE CONTINUANCE IS GRANTED.

CASE NO. A-16-064

Applicant – Ilder Javier Vasquez

Lot S 39 FT of W 25.7 FT of 14 & S 39 FT of 15, NCB 1406

422 Dreiss Street

Zoning: "RM-4 AHOD" Residential Mixed Airport Hazard Overlay District

The applicant is requesting for the elimination of the five foot side yard setback, as described in Section 35-310.01, to allow an attached carport to remain on the side property line.

Logan Sparrow, Senior Planner, presented the background information and staff's recommendation of the variance. He indicated 24 notices were mailed, 0 returned in favor, and 2 returned in opposition, and no response from the Denver Heights Neighborhood Association.

Ilder Javier Vasquez, applicant, stated the carport is large because he wanted to improve the carport after his new ownership.

Javier Roman, World Wide Languages, translator provided for the applicant by the City of San Antonio.

The following citizens appeared to speak:

Lionel Lowery, 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-16-064 closed.

MOTION

A motion was made by **Mr. Quijano** for a continuance to May 23, 2016. The motion was seconded by **Mr. Rodriguez**.

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

NAYS: None

THE CONTINUANCE IS GRANTED.

CASE NO. A-16-065

Applicant – Haengja Wilcox
Lot 24, Block 22, NCB 13275
607 Patricia Drive
Zoning: “R-5 AHOD” Residential Single-Family Airport Hazard Overlay
District

The applicant is requesting for 1) a one foot variance from the required five foot side setback, as described in Section 35-310.01, to allow a carport to remain four feet from the side property line and 2) a nine foot variance from the 30 foot platted front setback to allow a carport to remain 21 feet from the front property line, as described in Section 35-516 (O).

Logan Sparrow, Senior Planner, presented the site plan and updated information for the case, and staff’s recommendation of the variance requests. He indicated 13 notices were mailed, 0 returned in favor, 0 returned in opposition, and the Oakland Estates Neighborhood Association is in opposition.

Haengja Wilcox, applicant, presented the Board with a presentation with information to state the reason for the requested variance, which is due to a needed carport to repair the applicant’s vehicle.

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-16-065 closed.

MOTION

A motion was made by **Mr. Kuderer**. “Regarding Appeal No. A-16-065, variance application for 1) a one foot variance from the required five foot side setback to allow a carport to remain four feet from the side property line and 2) a nine foot variance from the 30 foot platted front setback to allow a carport to remain 21 feet from the front property line, subject property description Lot 24, Block 22, NCB 13275, situated at 607 Patricia Drive, applicant being Haengja Wilcox.

“I move that the Board of Adjustment grant the applicant’s request for a 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) "Such variance will not be contrary to the public interest" in that **public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by setbacks that help to ensure that we have uniform, safe development within the City of San Antonio. The carport, as it stands now, is not contrary to the public interest. The carport has gutters and meets the required 10 foot front setback required by the UDC.**
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that **the ability to provide a space for a person with a special medical condition is a reasonable request.**
- 3) "The spirit of the ordinance is observed and substantial justice is done" in that **the water runoff is not likely to cause damage to adjacent property as the carport has gutters. Additionally, the carport is not likely to increase fire spread to adjacent properties.**
- 4) "Such 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" in that **the carport was constructed to meet the 10 foot front setback required by the UDC and is only violating a platted setback. The carport has gutters to address water runoff and is not likely to increase fire spread. We find this carport will 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, **because a resident of the home requires a special accommodation due to a medical disability. This is not merely financial and is not the fault of the owner.**" The motion was seconded by Mr. Martinez.

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

NAYS: None

THE VARIANCES ARE GRANTED.

CASE NO. A-16-066

Applicant: Burt Manriquez

Lot 3, Block 15, NCB 8386

1122 Alexander Hamilton

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

The applicant is requesting for the elimination of the required five foot side yard setback, as described in Section 35-310.01, to allow a carport to remain on the side property line.

Logan Sparrow, Senior Planner, presented background, and staff's recommendation of the variance request. He indicated 26 notices were mailed, 2 returned in favor, 0 returned in opposition, and no response from the Donaldson Neighborhood Association.

Burt Manriquez, applicant, requested the variance to allow the carport to stand as is for the safety easement of his disabled spouse.

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-16-066 closed.

MOTION

A motion was made by **Mr. Rodriguez**. "Regarding Appeal No. A-16-066, variance application request for the elimination of the required five foot side yard setback to allow a carport to remain on the side property line, subject property description Lot 3, Block 15, NCB 8386, situated at 1122 Alexander Hamilton, applicant being Burt Manriquez.

"I move that the Board of Adjustment grant the applicant's request for a 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) "Such variance will not be contrary to the public interest" in that **public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by setbacks that help to ensure that we have uniform, safe development within the City of San Antonio. The Board finds that the request for covered parking encroaching into the setbacks is not contrary to the public. However, if approved the applicant should take measures to address water runoff and fire rating**
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that **the applicant would be required to demolish the carport and this would result in an unnecessary hardship.**
- 3) "The spirit of the ordinance is observed and substantial justice is done" in that **meeting fire standards will make the carport more safe**
- 4) "Such variance will not authorize the operation of a use other than those uses specifically authorized in the **"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District.**
- 5) "Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located" in that **the carport is will be required to meet fire standards.**

- 6) "The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, **because the purpose of the single-family residential zoning districts is to encourage patterns of residential development that provide housing choices and a sense of community. Therefore, the requested special exception will not weaken the general purpose of the district.**" The motion was seconded by Mr. Martinez.

AYES: Rodriguez, Martinez, Neff, Finlay, Cruz, Zuniga, Garcia, Kuderer, Rogers

NAYS: Quijano

THE VARIANCE IS GRANTED.

The Board of Adjustment recessed for a 10 minute break at 2:38 p.m.

CASE NO. A-16-069

Applicant: Alvin G. Peters

Owner: HNB Investment, LLC c/o Abida Parveen

Lot 1, Block 2, NCB 16600

15698 Chase Hill Boulevard

Zoning: "C-3 ERZD MLOD AHOD" General Commercial Edwards Recharge

Zone Military Lighting Overlay Airport Hazard Overlay District

The applicant is requesting for 1) a 18 foot variance from the 30 foot rear setback, as described in Section 35-310.01, to allow a commercial development within twelve feet of the rear property line and 2) a 20 foot variance from the 30 foot side setback, also described in Section 35-310.01, to allow for a commercial development within ten feet of the side property line.

Logan Sparrow, Senior Planner, presented background, and staff's recommendation of the variance requests. He indicated 8 notices were mailed, 0 returned in favor, and 2 returned in opposition.

Alvin Peters, representative, requested the variance to reduce the bufferyard to allow for a commercial 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-16-069 closed.

MOTION

A motion was made by **Mr. Kuderer**. "Regarding Appeal No. A-16-069, variance application for 1) a 18 foot variance from the 30 foot rear setback to allow a commercial development within

twelve feet of the rear property line and 2) a 20 foot variance from the 30 foot side setback to allow for a commercial development within ten feet of the side property line, subject property description Lot 1, Block 2, NCB 16600, situated at 15698 Chase Hill Boulevard, applicant being Alvin G. Peters.

"I move that the Board of Adjustment grant the applicant's request for a 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) "Such variance will not be contrary to the public interest" in that **the cumulative setbacks are enough to provide safe distances for fire separation and because the applicant is proposing a bufferyard to further separate the two uses.**
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that **the alternative design would be to push the commercial development closer to the street. This design would require existing trees to be removed to make room for required parking.**
- 3) "The spirit of the ordinance is observed and substantial justice is done" in that **there is still enough separation of uses to ensure the neighboring properties are not harmed by the proposed commercial development.**
- 4) "Such variance will not authorize the operation of a use other than those uses specifically authorized in the "C-3 MLOD ERZD" General Commercial Military Lighting Overlay Edwards Recharge Zone District.
- 5) "Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located" in that **the proposed design is not out of character within the community. Further, the applicant is seeking a variance to allow the development to be closer to the rear of the lot which preserves existing trees on-site.**
- 6) "The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, **because the applicant wishes to conserve existing trees and because the cumulative effect of the setbacks on the subject and abutting properties provides adequate distances for fire separation.**" The motion was seconded by Ms. Cruz.

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

NAYS: None

THE VARIANCE IS GRANTED.

CASE NO. A-16-070

Applicant – Nabor A. De Leon Jr.
Lot 22 & E. 10 FT of Lot 23, Block 2, NCB 8110
322 Bexar Street
Zoning: “R-4 AHOD” Residential Single-Family Airport Hazard Overlay
District

The applicant is requesting for the elimination of the required five foot side yard setback, as described in Section 35-310.01, to allow a new dwelling on the side property line.

Logan Sparrow, Senior Planner, presented the background information, and staff’s recommendation of the variance request. He indicated 25 notices were mailed, 0 returned in favor, 0 returned in opposition, and no response from the Donaldson Terrace Neighborhood Association.

Nabor Deleon, applicant, requested the variance to eliminate the setback line between his two properties.

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-16-070 closed.

MOTION

A motion was made by **Mr. Martinez**. “Regarding Appeal No. A-16-070, variance application request for the elimination of the required five foot side yard setback to allow a new dwelling on the side property line, subject property description Lot 22 & E. 10 FT of Lot 23, Block 2, NCB 8110, situated at 322 Bexar Street, applicant being Nabor A. De Leon Jr.

“I move that the Board of Adjustment grant the applicant’s request for a 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) “Such variance will not be contrary to the public interest” in that the **public interest is defined as the general health, safety, and welfare of the public. In this case, these are represented by requiring minimum setbacks established to provide room for maintenance and fire separation. With the proposed variance from the required side**

setback there would still be ample room for maintenance without trespass and fire separation.

- 2) **"Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that the current state of the subject property being divided into two lots creates a special condition. The smaller lot, with a 10 foot width, will meet the spirit of the side setback required by the UDC.**
- 3) **"The spirit of the ordinance is observed and substantial justice is done" in that spirit of the ordinance is the intent of the code rather than the specific requirement. In this case, the intent of the setback is to provide separation for maintenance, fire protection, and mitigation of water drainage. With the proposed site plan, the home will use the 10 foot width of the adjacent lot, but located within the subject property, to meet the spirit of the side setback.**
- 4) **"Such variance will not authorize the operation of a use other than those uses specifically authorized in the "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District.**
- 5) **"Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located" in that the requested variance from the side setback will not alter the character of the district**
- 6) **"The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, because the subdivision within the subject property 10 feet of the property is undevelopable. This is not financial in nature or caused by the owner. In fact, the applicant wishes to utilize these 10 feet to meet the spirit of the side setback." The motion was seconded by Mr. Garcia.**

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

NAYS: None

THE VARIANCE IS GRANTED.

CASE NO. A-16-071

Applicant – John M. Marquis

Lot 21, NCB 6137

3402 Meadow Drive

Zoning: "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District

The applicant is requesting for a special exception to allow for the construction of a fence that is as high as seven feet and nine inches high in the rear yard of the property, as described in Section 35-514.

Logan Sparrow, Senior Planner, presented background, and staff's recommendation of the special exception request. He indicated 32 notices were mailed, 2 returned in favor, 6 returned in opposition, and the Pipers Meadow Neighborhood Association is in opposition.

John Marquis, applicant, requested the special exception to allow a higher fence to allow privacy and minimize noise from the street.

The following citizens appeared to speak:

Owen O'Hare, President of Pipers Meadow Neighborhood Association, 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-16-071 closed.

MOTION

A motion was made by **Mr. Neff**. "Regarding Appeal No. A-16-071, variance application for a special exception to allow for the construction of a fence that is as high as seven feet and nine inches high in the rear yard of the property, subject property description Lot 1, Block 22, NCB 18072, situated at 3402 Meadow Drive, applicant being John M. Marquis.

"I move that the Board of Adjustment grant the applicant's request for a 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 special exception will be in harmony with the spirit and purpose of the chapter" in that **UDC allows fences as tall as seven feet and nine inches as a special exception, authorized under certain circumstances in accordance with specific factors as described in this report. If granted, this request would be harmony with the spirit and purpose of the ordinance.**
2. "The public welfare and convenience will be substantially served" in that **the public welfare and convenience can be served through the added protection of a rear yard fence, allowing the owner to protect his home and improve the quiet enjoyment of their rear yard**
3. "The neighboring property will not be substantially injured by such proposed use" in that **the rear fence will create enhanced privacy for the subject property and is highly unlikely to injure adjacent properties.**
4. "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" in that: **rear fencing is not out of character in this neighborhood and the subject property is located along a highly trafficked**

street, not another property. Thus, granting the exception will not alter the character of the district.

5. "The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district" in that: **the purpose of the single-family residential zoning districts is to encourage patterns of residential development that provide housing choices and a sense of community. Therefore, the requested special exception will not weaken the general purpose of the district.**" The motion was seconded by Mr. Quijano.

Mr. Martinez made an Amendment to the motion to follow the site plan where the height maximum would only be along the street. Mr. Neff seconded the motion.

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

NAYS: None

THE SPECIAL EXCEPTION IS GRANTED.

Ms. Rogers made a motion to approve the April 4, 2016 minutes with all members voting in the affirmative.

Directors Report:

There being no further discussion, meeting adjourned at 3:55 pm.

April 11, 2016

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

DATE: 5-9-16

ATTESTED BY: Melba Ray DATE: May 12/16
Executive Secretary