

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
June 20, 2016**

Members Present:	Mary Rogers Roger Martinez John Kuderer Henry Rodriguez Maria Cruz Jeffrey Finlay Christopher Garcia George Britton Frank Quijano Jesse Zuniga Gene Camargo	Staff: Catherine Hernandez, Planning Manager Logan Sparrow, Senior Planner Shepard Beamon, Planner Paul Wendland, City Attorney
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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.

Arianne Villanueva from World Wide Translators was present.

Case Number: A-16-107

Applicant: Leybi Pon
Owner: Mario R. Pon
Council District: 9
Location: 12315 Walthampton Street
Legal Description: Lot 8, Block 3, NCB 1511
Zoning: "MF-33 AHOD" Multi-Family Airport Hazard Overlay District
Case Manager: Shepard Beamon, Planner

Request

A request for a special exception, pursuant to Section 35-399.01 (i) of the Unified Development Code, to allow a one-operator beauty/barber shop in the home.

Shepard Beamon, Planner, presented background, and staff's recommends Approval of the variance. He indicated 33 notices were mailed, 3 returned in favor, and 1 returned in opposition. No neighborhood association.

street that would indicate the presence of a beauty/barber shop. Also, staff noted a driveway capable of providing any necessary parking for the proposed use.

“The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district” in that: the primary use of the dwelling remains a single-family home. The granting of this special exception will not weaken the purposes of the residential zoning district. The motion was seconded by Mr. Garcia.

Mr. Zuniga made an amendment, by appointment only and the hours of Monday - Friday from 8:00 a.m. - 5:00 p.m. and Saturday from 8:00 a.m. - 4:00 p.m.

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

NAYS: None

THE SPECIAL EXCEPTION IS GRANTED.

Case Number: A-16-106

Applicant: Jose L. Garcia

Owner: Jose L. Garcia

Council District: 5

Location: 2316 South Laredo Street

Legal Description: Lot 17, Block 6, NCB 3163

Zoning: “I-2 AHOD” Heavy Industrial Airport Hazard Overlay District

Case Manager: Logan Sparrow, Senior Planner

Request

A request for 1) the elimination of the required 30 foot front setback, as described in Table 35-310 to allow a covered patio to remain on the front property line and 2) a 21 foot variance from the Clear Vision requirement, as described in 35-514, to allow a 5 foot fence to remain in its current location.

Logan Sparrow, Senior Planner, presented the background information and staff’s recommendation of the variance. 25 Notices were mailed out, 0 in favor 0 in opposition and no response from the Collins Garden and Avenida Guadalupe Neighborhood Associations.

Jose L. Garcia: applicant utilized the interpreter services, Arianne Villanueva translated for Mr. Garcia, answering all questions and concerns.

No Citizens signed up to speak.

Mr. Kuderer made a motion for the clear vision requirement to remain in current location

Mr. Kuderer withdrew his motion, motion failed.

Case Number: A-16-104

Applicant: David Komet

Owner: 1921 Deco Building, LLC

Council District: 7

Location: 1921 Fredericksburg Road

Legal Description: Lot 2, Block 1, NCB 6692

Zoning: "C-2NA H AHOD" Commercial Non-Alcoholic Sales Monticello Park

Historic Airport Hazard Overlay District

Case Manager: Logan Sparrow, Senior Planner

Request

A request for 1) a 7 foot variance from the 10 foot buffer to allow a bufferyard to be 3 feet deep and 2) the elimination of the required 20 foot throat beyond the property line to allow a commercial development with no throat for parking lot entry.

Logan Sparrow, Senior Planner, presented background, and staff's recommends Approval of the variance. He indicated 21 notices were mailed, 1 returned in favor, and 0 returned in opposition. No response from the Monticello Park and Keystone Neighborhood Associations.

David Komet: Applicant was present and answered questions.

The following citizens appeared to speak:

Bianca Maldonado: President of the Monticello Neighborhood Association had concerns but was 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-16-104 closed.

A MOTION was made by Mr. Martinez. "Regarding Appeal No. A-16-104, for 1) a 7 foot variance from the 10 foot buffer to allow a bufferyard to be 3 feet deep and 2) the elimination of the required 20 foot throat beyond the property line to allow a commercial development with no throat for parking lot entry, subject property description Lot 2, Block 1, NCB 6692, situated at 1921 Fredericksburg Road, applicant being David Komet.

"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

Case Number: A-16-105

Applicant: Matthew Ranjbar

Owner: Matthew Ranjbar and Narges Izad

Council District: 7

Location: 8627 Bandera Road

Legal Description: Lot 2, Block 5, NCB 17929

Zoning: "C-3 AHOD" General Commercial Airport Hazard Overlay District

Case Manager: Logan Sparrow, Senior Planner

Request

A request for the elimination of the Type B, 15 foot, bufferyard along the Bandera Road frontage, as described in Section 35-510, to allow for a commercial development with no bufferyard.

Logan Sparrow: Senior Planner, He indicated 36 notices were mailed, 0 returned in favor, 0 returned in opposition, and no Neighborhood Association.

Mathhew Ranjbar: Applicant, presented information to the Board and requested approval of variance.

The following citizens appeared to speak:

Elizabeth Bercher: 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-16-105 closed.

Motion was made by **Mr. Kuderer**. Regarding Appeal No. A-16-105, for the elimination of the Type B, 5 foot, bufferyard along the Bandera Road frontage to allow for a commercial development with no bufferyard, subject property description Lot 2, Block 5, NCB 17929, situated at 8627 Bandera Road, applicant being Matthew Ranjbar.

"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:

bufferyard, as described in Section 35-510, to allow a building to be constructed five (5) feet from the side property line with no bufferyard.

Shepard Beamon, Planner, presented background, and staff's recommends Approval of the special exceptions. He indicated 21 notices were mailed, 0 returned in favor, and 0 returned in opposition. No response from Shearhill/ Ridgeview Neighborhood Associations.

Armia Mazaheri, Applicant requested approval of variance

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-16-109 closed.

MOTION was made by **Mr. Quijano**. "Regarding Appeal No. A-16-109, for 1) a twenty-five (25) foot variance from the thirty (30) foot side yard setback and 2) the elimination of the twenty-five (25) foot, Type D, bufferyard to allow a building to be constructed five (5) feet from the side property line with no bufferyard, subject property description Lot 41, NCB 10115, situated at 1039 Basse Road, applicant being Armia Mazaheri.

"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, the public interest is represented by setback limitations to protect property owners and create a cohesive streetscape. The requested variance does not increase fire hazard, will not create water runoff on the adjacent property, and will not require trespass to maintain the building.**
- 2) A literal enforcement of the ordinance would result in unnecessary hardship" in that **if the adjacent property's zoning was consistent with the use, the 30 foot setback would not be required. The neighboring property has a Commercial/Industrial use which, if zoned correctly, would not require a setback. However, the applicant has proposed to provide a 5 foot setback.**
- 3) "The spirit of the ordinance is observed and substantial justice is done" in that **the spirit of the ordinance represents the intent of the requirement of providing a substantial setback between Industrial and Residential zoning. In this case, the use of the adjacent property is not consistent with the residential zoning.**
- 4) "Such variance will not authorize the operation of a use other than those uses specifically authorized in the **"I-1 AHOD" General Industrial Airport Hazard Overlay District.**

Request

A request for thirteen (13) foot variance from the twenty-five (25) foot platted front setback, as described in Section 35-516 (O), to allow a carport to be twelve (12) feet from the front property line.

Shepard Beamon, Planner, presented the background information, and staff's recommendation of the variance request. He indicated 31 notices were mailed, 1 returned in opposition and 3 in favor and no neighborhood association.

Bert J Brown, Applicant requested approval of variance.

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-16-098 closed.

MOTION

A motion was made by **Mr. Quijano**. "Regarding Appeal No. A-16-098, for thirteen (13) foot variance from the twenty-five (25) foot platted front setback to allow a carport to be twelve (12) feet from the front property line, subject property description Lot 7, Block 7, NCB 17807, situated at 14319 Ridge Falls Drive, applicant being Bert J. Brown.

"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, the public interest is represented by setback limitations to protect property owners and create a cohesive streetscape. The proposed twelve (12) feet in the front of the property provides this streetscape protection in other areas. Since the carport meets the side setback a modified 13 foot variance would not be contrary to the public interest.**
- 2) A literal enforcement of the ordinance would result in unnecessary hardship" in that **enforcement of the platted setback would not allow any carport. Allowing a reduced front setback will provide equal treatment for all residential properties.**
- 3) "The spirit of the ordinance is observed and substantial justice is done" in that **the spirit of the ordinance represents the intent of the requirement. The requested variance for a twelve (12) foot front setback meets the zoning requirement established in most residential districts.**

Jose Vasquez, Applicant requested approval of the variance.

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-16-099 closed.

MOTION A motion was made by **Mr. Garcia**. “Regarding Appeal No. A-16-099, for a twelve (12) foot variance from the twenty (20) foot platted front setback to allow a carport to be eight (8) feet from the front property line, subject property description Lot 24, Block 6, NCB 15859, situated at 1326 Bay Horse Drive, applicant being Jose Vasquez.

“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, the public interest is represented by setback limitations to protect property owners and create a cohesive streetscape. The proposed eight (8) feet in the front of the property provides this streetscape protection in other areas. Since the carport meets the side setback a modified 20 foot variance would not be contrary to the public interest.**
- 2) A literal enforcement of the ordinance would result in unnecessary hardship” in that **enforcement of the platted setback would not allow any carport. Allowing a reduced front setback will provide equal treatment for all residential properties.**
- 3) “The spirit of the ordinance is observed and substantial justice is done” in that **the spirit of the ordinance represents the intent of the requirement. The 8 feet front setback and represents the ordinance and the proposed carport meets this spirit.**
- 4) “Such variance will not authorize the operation of a use other than those uses specifically authorized in the “**R-6 AHOD” Residential Single-Family Airport Hazard Overlay District.**
- 5) “Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located” in that **the carport will be an attractive addition to the home when it is completed. A twelve (12) foot variance from the twenty (20) foot platted setback will not cause harm to adjacent properties. Additionally, the property will still have room for maintenance without trespass.**
- 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 twenty (20) foot platted front setback**

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, the public interest is represented by setback limitations to protect property owners and create a cohesive streetscape. The proposed ten (10) feet in the front of the property provides this streetscape protection in other areas. Since the carport meets the side setback a modified 20 foot variance would not be contrary to the public interest.**
- 2) A literal enforcement of the ordinance would result in unnecessary hardship” in that **enforcement of the platted setback would not allow any carport. Allowing a reduced front setback will provide equal treatment for all residential properties.**
- 3) “The spirit of the ordinance is observed and substantial justice is done” in that **the spirit of the ordinance represents the intent of the requirement. The requested variance for a ten (10) foot front setback meets the zoning requirement established in most residential districts.**
- 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 will be an attractive addition to the home when it is completed. A twenty (20) foot variance from the thirty (30) foot platted setback will not cause harm to adjacent properties. Additionally, the property will not increase fire hazard, will not create water runoff on the adjacent property, and will allow room for maintenance without trespass.**
- 6) “The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, **the thirty (30) foot platted front setback poses an additional barrier to property development and does not provide this property owner equal rights for development. The City of San Antonio has an established 10 foot front setback, applied in all residential districts, and the proposed carport meets this established setback.**” Mr. Kuderer seconded the motion.

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

NAYS: None

THE VARIANCE IS GRANTED.



existing neighborhood. Also, the variance request will allow for building maintenance without trespass, no water runoff will occur on the adjacent property, and will not increase fire risk.

- 2) A literal enforcement of the ordinance would result in unnecessary hardship” in that **the special condition presented in this case is the original location of the existing home. The existing home is less than two feet from the side property line. If the home were three feet from the side property line, then the proposed addition would be permitted by right per section 35-516 (b).**
- 3) “The spirit of the ordinance is observed and substantial justice is done” in that **the spirit of the ordinance is defined as the intent of the code rather than the letter of the law. Side setbacks were created to provide some separation between homes to prevent the spread of fire. If approved the applicant will have to ensure the structure meets fire standards. Granting the requested variance will result in substantial justice.**
- 4) “Such variance will not authorize the operation of a use other than those uses specifically authorized in the **“RM-4 H AHOD” Residential Single-Family King William 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 addition will not detract from the overall character of the King William community. The requested three foot separation will provide the needed space for maintenance without trespass and is not likely to cause water runoff on neighboring properties. In addition, the plans have been approved by HDRC, which ensures new construction and renovations are in keeping with the historic nature 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, **per the Unified Development Code, an addition can be built in line to the existing home if no part of the structure is less than 3 feet from the side property line. In this case, the existing home is less than two feet from the side property line. The addition would fulfill the Code requirements if the current existing structure were built three feet from the property line, which is permitted by right.”** Mr. Martinez seconded the motion.

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

NAYS: None

THE VARIANCE IS GRANTED.

The Board of Adjustment recessed for a 5 minute break at 4:15pm

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 criteria are represented by minimum setback requirements to ensure equal access to air and light and to prevent the spread of fire. The applicant is seeking only a 5.25 foot deviation from the requirement established by the Unified Development Code. Staff finds that the requested variance is not contrary to the public interest in that the addition will still be 14.75 feet from the rear property line and is not visible from the public right of way.**
- 2) A literal enforcement of the ordinance would result in unnecessary hardship” in that **a literal enforcement if the setback is likely to result in unnecessary hardship in that the structure will have to be removed.**
- 3) “The spirit of the ordinance is observed and substantial justice is done” in that **granting the requested variance will result in substantial justice. Considering the requested variance seeks only a 5.25 foot deviation from the requirement, a distance that is unlikely to be noticed, staff finds that the spirit of the ordinance will be observed.**
- 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 **it is unlikely that granting the requested variance will harm adjacent properties as the request seeks to reduce only a small portion of the rear setback. Adjacent property owners will still be protected as the structure meets the side setbacks.**
- 6) “The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, **the unique circumstance present in this case is the fact the applicant was unaware that a permit was not acquired and is moving through the appropriate channels to address the setback violation.”** The motion was seconded by Ms. Cruz.

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

NAYS: None

THE VARIANCE IS GRANTED.



Legal Description: Lot 15, Block 27, N.CB 17162
Zoning: "R-6 MLOD AHOD" Residential Single-Family Military Lighting
Overlay Airport Hazard Overlay District
Case Manager: Shepard Beamon, Planner

Request

A request for a one and a half (1.5) foot variance from the required three (3) foot side setback as described in Section 35-370 (b) 1, to allow an accessory structure to be located one and a half (1.5) feet from the side property line.

Shepard Beamon, Planner, presented background for the requested variance. He indicated 21 notices were mailed, 2 returned in favor, 1 returned in opposition. No response from the Hunters Creek Neighborhood Association.

Curtis Cooper: Applicant, requested approval of the variance.

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-16-110 closed.

MOTION A motion was made by **Mr. Quijano**. "Regarding Appeal No. A-16-110, for a one and a half (1.5) foot variance from the required three (3) foot side setback to allow an accessory structure to be located one and a half (1.5) feet from the side property line, subject property description Lot 15, Block 27, N.CB 17162, situated at 13258 Hunters Breeze, applicant being Paul Cooper.

"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, the public interest is represented by setback limitations to protect property owners and create a cohesive streetscape. The structure in its current location will not disrupt the character of the surrounding neighborhood.**
- 2) A literal enforcement of the ordinance would result in unnecessary hardship" in that **the applicant is requesting the variance to replace an existing an older shed that has been in the same location for over 10 years**
- 3) "The spirit of the ordinance is observed and substantial justice is done" in that **the spirit of the ordinance represents the intent of the requirement. The 18 inches is a sufficient buffer to meet the spirit of the code.**

APPROVED BY: Mary E. Rozen OR 7-10-16
Chairman Vice-Chair

DATE: _____

ATTESTED BY: Melvin Ray DATE: 7/14/16
Executive Secretary