

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
August 8, 2016**

Members Present:

Mary Rogers
Roger Martinez
Frank Quijano
Alan Neff
Denise Ojeda
George Britton
Christopher Garcia
Henry Rodriguez
Jeffrey Finlay
Jay C Gragg
Seth Peel

Staff:

Catherine Hernandez, Planning Manager
Shepard Beamon, Planner
Paul Wendland, City Attorney

Call to Order

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

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

Arianne Villanueva, from World Wide Translators was present.

CASE NO. A-16-130

Applicant – Larry Gottsman

Lot 10, Block 10, NCB 17728 and Lot 8, Block 10, NCB 17728

17822 Bulverde Road and 17702 Bulverde Road

Zoning: “C-2 PC-1 ERZD” Commercial Bulverde Road Preservation Corridor Overlay Edwards Recharge Zone District

Request

The applicant is requesting a variance from the “PC-1” Bulverde Road Preservation Corridor design standard that requires that the support structure of a pole sign must be encased in approved materials that match or compliment the primary structure

Shepard Beamon, Planner, presented background and staff’s recommendation of denial of the requested variance. He indicated 11 notices were mailed, none were returned in favor and none were returned in opposition.

Larry Gottsman, applicant, stated the variance would allow the sign to be in line another sign within the area. He also stated the code interpretations are vague.

Andrew Perez, Sign Inspector, stated the code asks for a base without dimensions. He also stated the base does not have to go all the way up to the cabinet.

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-16-130 closed.

MOTION

A motion was made by **Mr. Martinez**. Regarding Appeal No. **A-16-130**, variance application for a **variance from the "PC-1" Bulverde Road Preservation Corridor standard that requires that the support structure of a pole sign must be encased in approved materials that match or compliment that materials of the primary structure**, subject property description **Lot 10, Block 10, NCB 17728 and Lot 8, Block 10, NCB 17728**, situated at **17822 Bulverde Road and 17702 Bulverde Road**, applicant being **Larry Gottsman**. 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 signs, as proposed, compliment that corridor and do not require additional encasing.**
- 2) A literal enforcement of the ordinance would result in unnecessary hardship in that **a literal enforcement would require that the property owner add the encasing materials when the sign, as proposed, compliments the corridor already.**
- 3) The spirit of the ordinance is observed and substantial justice is done in that **the intent of the corridor design requirements is achieved without having the property owner add the encasing design.**
- 4) Such variance will not authorize the operation of a use other than those uses specifically authorized in the **"C-2 PC-1 ERZD" Commercial Bulverde Road Preservation Corridor 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 properties are located very close to each other and would have consistent signage.**

- 6) The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property **in that the added encasing design is unnecessary for the project because the proposed signage compliments the building.**

The motion was seconded by **Mr. Quijano.**

AYES: None

NAYS: Martinez, Neff, Ojeda, Britton, Teel, Finlay, Garcia, Gragg, Rodriguez, Quijano, Rogers

THE VARIANCE IS NOT GRANTED.

CASE NO. A-16-126

Applicant – David Monroe
Lot 27, Block 1, NCB 18338
23011 IH 10 West

Zoning: “C-3 GC-1 MSAO-1 MLOD” General Commercial Hill Country Gateway Corridor Overlay Military Sound Attenuation Overlay Military Lighting Overlay District and “C-2 CD GC-1 MSAO-1 MLOD” Commercial Hill Country Gateway Corridor Overlay Military Sound Attenuation Overlay Military Lighting Overlay District with Conditional Use for Motor Vehicle Sales (Full Service)

Request

The applicant is requesting 1) a 15 foot variance from the 30 foot required rear setback, as described in Section 35-310.01, to allow for a commercial development with a 15 foot rear setback and variances from the “GC-1” Hill Country Gateway Corridor for the following: 2) a variance to eliminate the four foot minimum height requirement for parking area screening within the front 90 feet of the property and 3) a variance to eliminate the required 25 foot front bufferyard and 4) a variance from the ten foot rear bufferyard and 5) a variance from the requirement that no more than 70 percent of the building may be glass.

Shepard Beamon, Planner, presented background and staff’s recommendation of approval of the requested variance. He indicated 13 notices were mailed, none were returned in favor and none were returned in opposition.

James McKnight, representative, stated the variance is requested for the future of home Tesla which will include a showroom and service bays. Since these are electric vehicles the service provided will not be extensive. He also stated the purpose of the variance is to bring the property into compliance. He further stated the property has a big change in topography throughout the property. The property was previously platted for a car dealership.

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-16-126 closed.

MOTION

A motion was made by **Mr. Garcia**. Regarding Appeal No. A-16-126, variance application for **1) a 15 foot variance from the 30 foot required rear setback, as described in Section 35-310.01, to allow for a commercial development with a 15 foot rear setback and variances from the "GC-1" Hill Country Gateway Corridor for the following: 2) a variance to eliminate the four foot minimum height requirement for parking area screening within the front 90 feet of the property and 3) a variance to eliminate the required 25 foot front bufferyard and 4) a variance from the ten foot rear bufferyard and 5) a variance from the elimination of the requirement that no more than 70 percent of the building may be glass,** subject property description **Lot 127, Block 1, NCB 18338, situated at 23011 IH-10 West,** applicant being **Unobtanium Property Solutions, LLC**. 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 served by allowing the current site and building design to remain.**
- 2) A literal enforcement of the ordinance would result in unnecessary hardship in that **a literal enforcement would result in the property owner having to re-design the entire site. The property has, to date, caused no issues.**
- 3) The spirit of the ordinance is observed and substantial justice is done in that **the spirit of the ordinance now calls for design requirements that didn't exist when the property was initially developed. Substantial justice will be done in that the property can be used for a new business without re-designing the entire site.**
- 4) Such variance will not authorize the operation of a use other than those uses specifically authorized in the **"C-3 GC-1 MSAO-1 MLOD" General Commercial Hill Country Gateway Corridor Overlay Military Sound Attenuation Overlay Military Lighting Overlay District and "C-2 CD GC-1 MSAO-1 MLOD" Commercial Hill Country Gateway Corridor Overlay Military Sound Attenuation Overlay Military Lighting Overlay District with Conditional Use for Motor Vehicle Sales (Full Service).**
- 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 building has been in that configuration since 2002 without harming any adjacent properties.**

- 6) The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property **in that the plight of the owner of the property is the result of an ordinance being adopted after the initial development of the property. Retroactively applying design requirements present several challenges and meeting them can present an unnecessary hardship.**

The motion was seconded by **Mr. Rodriguez.**

AYES: Garcia, Rodriguez, Quijano, Neff, Ojeda, Britton, Teel, Finlay, Gragg, Martinez, Rogers

NAYS: None

THE VARIANCE IS GRANTED.

CASE NO. A-16-129

Applicant – Any Baby Can of San Antonio, Inc.
Lot 14, Block 3, NCB 771
217 Howard Street
Zoning: “C-2 AHOD” General Commercial Airport Hazard Overlay District

Request

The applicant is requesting a special exception, as described in Section 35-514, to allow an eight foot wood privacy fence in the rear yard of the property.

Shepard Beamon, Planner, presented background and staff’s recommendation of approval of the requested variance. He indicated 20 notices were mailed, none were returned in favor and 2 were returned in opposition and the Tobin Hills Neighborhood Association is in favor.

Marissa Ramirez, applicant, stated over the year they have had an increase number of homeless people in the area. She also stated there have been numerous trespassers on the property and the cleanup has been expensive for the business. She further stated the fence would provide protection for the business.

The following citizens appeared to speak:

Ben Fairbank, citizen, stated he is support of the variance.

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-16-129 closed.

MOTION

A motion was made by **Mr. Quijano**. Regarding Appeal No. **A-16-129**, a request for a **special exception for an eight foot wood privacy fence in the rear yard of the property**, subject property description **Lot 14, Block 3, NCB 771**, situated at **217 Howard Street**, applicant being **Any Baby Can of San Antonio, LLC**. I move that the Board of Adjustment grant the applicant's request for a 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" in that **the UDC allows eight (8) foot rear fences 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.**
- B. The public welfare and convenience will be substantially served" in that **the public welfare and convenience can be served by the added protection of rear yard fence, allowing the owner to protect the subject property.**
- C. The neighboring property will not be substantially injured by such proposed use" in that **the rear fence will create enhanced security for subject property and is highly unlikely to injure adjacent properties.**
- D. The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought" in that **rear fencing is not out of character in this neighborhood. Thus, granting the exception will not be detrimental to the character of the district.**
- E. 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 fencing standards is to protect the health, safety and general welfare of the public, enhance property values, and improve the appearance of the community. Therefore, the requested special exception will not weaken the general purpose of the district.**

The motion was seconded by **Mr. Martinez**.

AYES: Quijano, Martinez, Neff, Ojeda, Britton, Teel, Finlay, Garcia, Gragg, Rodriguez, Rogers

NAYS: None

THE SPECIAL EXCEPTION IS GRANTED.



CASE NO. A-16-122

Applicant – Maria Garcia

Lot S 90.54 feet of 8, Block 9, NCB 712

129 Barrera

Zoning: “RM-4 H AHOD” Residential Mixed Lavaca Historic Airport Hazard Overlay District

Request

The applicant is requesting a special exception, as described in Section 35-514, to 1) allow a 6 foot tall stone privacy fence in a portion of a reverse corner lot and 2) a special exception, as described in Section 35-514, to allow a 4 foot tall stone privacy fence in another portion of the reverse corner lot and front yard of the property and 3) a variance from the Clear Vision requirement, as described in Section 35-514, to allow portions of the fence to be located in the Clear Vision area.

Shepard Beamon, Planner, presented background and staff’s recommendation of approval of the requested special exception. He indicated 30 notices were mailed, one was returned in favor and none were returned in opposition and no response from the Lavaca Neighborhood Association

Maria Garcia, applicant, stated she has been exposed to crime over time and has had a break-in of her home while she was at work. She also stated there are numerous homes in the neighborhood that already have similar fences. She further stated the fence would provide security and protection for her home. Along with her architect, her fence will be of approved historic materials.

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-16-022 closed.

MOTION

A motion was made by **Mr. Rodriguez**. Regarding Appeal No. **A-16-122**, a request for 1) a special exception to allow a 6 foot tall stone privacy fence in a portion of a reverse corner lot and 2) a special exception to allow a 4 foot tall stone privacy fence in another portion of the reverse corner lot and front yard of the property and 3) a variance from the Clear Vision requirement to allow sections of fencing in the Clear Vision area, subject property description Lot S 90.54 feet of 8, Block 9, NCB 712, situated at 129 Barrera Street, applicant being **Marcia Garcia**. I move that the Board of Adjustment grant the applicant’s request for a variance and 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:

- 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 the Clear Vision requirement to promote safe pedestrian and vehicular movement within the city. The applicant is seeking a variance to allow portions of the fencing to be in the clear vision field. Because so little of the proposed fence is located within that field, and because the applicant has ample room leaving the subject property to see oncoming traffic, staff finds that this request is not contrary to the public interest.**
- 2) Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the special condition is that the subject property is a corner lot and, as is common in this downtown community, a smaller lot. The 2015 Unified Development Code amendments included a provision that the clear vision field is measured 25 feet back from the curb, in a triangle, for street intersections, and 15 feet back from the curb for driveways and alleys.**
- 3) The spirit of the ordinance is observed and substantial justice is done in that **granting the requested variances would result in substantial justice because it would allow the property owner to complete a fencing design that is in character with the neighborhood. Other properties in this community have similar fencing.**
- 4) Such variance will not authorize the operation of a use other than those uses specifically authorized in the **"RM-4 H AHOD" Residential Mixed Lavaca 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 **adjacent properties are unlikely to be negatively affected by the requested changes in that they, too, will have ample room to view oncoming traffic while backing out of their 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, **the plight of the owner of the property is the result of a large clear vision field being applied to a small lot. This is not the fault of the owner, nor is it merely financial in nature.**

According to Section 35-482(h) of the UDC, in order for a special exception to be granted, the Board of Adjustment must find that the request meets each of the five following conditions:

- A) The special exception will be in harmony with the spirit and purpose of the chapter in that **the UDC allows fences higher than four (4) and six (6) feet tall as a special exception, authorized under certain circumstances in accordance with specific factors as described in this report. The owner has expressed concern of safety due to proximity to the downtown urban area. A four and six foot tall fence would add protection and potentially deter trespassing. Approval of the requested fence in the front yard of the reverse corner lot is in the harmony and spirit of the Unified Development Code.**

- B) The public welfare and convenience will be substantially served in that **constructing a four and six foot fence would not hinder surrounding property owners. Within the neighborhood, several properties have fencing for added protection and privacy.**
- C) The neighboring property will not be substantially injured by such proposed use in that **the requested material and fence height should not create a risk for the neighboring property and will have very little interference with Clear Vision.**
- 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 in that **in the "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District.**
- E) The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district in that **the proposed fence will not detract from the character of the historic district. The request for a four and six foot stone fence was reviewed by the Historic Design Review Commission, receiving conceptual approval on June 1, 2016.**

The motion was seconded by **Mr. Martinez.**

AYES: Rodriguez, Martinez, Quijano, Neff, Ojeda, Briton, Teel, Finlay, Garcia, Gragg, Rogers

NAYS: None

THE SPECIAL EXCEPTION IS GRANTED.

Board members recessed for 10 minutes.

CASE NO. A-16-131

Applicant – Ricardo San Miguel
Lots 7 and 8, Block 124, NCB 8040
210 Wagner Avenue
Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard

Request

The applicant is a four foot variance from the required five foot side yard setback, as described in Section 35-310.01, to allow a carport to remain one foot from the side property line.

Shepard Beamon, Planner, presented background and staff's recommendation of approval of the requested variance. He indicated 33 notices were mailed, one was returned in favor and none were returned in opposition and no response from the Tierra Linda Neighborhood Association.

Raul San Miguel, applicant, stated the carport has been there for over 10 years. He also stated his father maintained the gutters to have the water flow into their property. He further stated his father assumed the contractor had obtained the proper permits.

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-16-131 closed.

MOTION

A motion was made by **Mr. Finlay**. Regarding Appeal No. **A-16-131**, variance application for a **four foot variance from the required five foot side yard setback to allow a carport to remain one foot from the side property line**, subject property description **Lots 7 & 8, Block 124, NCB 8040**, situated at **210 Wagner Avenue**, applicant being **Ricardo San Miguel**. 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 carport has been in the current location for ten years and is made of metal to mitigate fire risk. Also, the carport has gutters to address drainage concerns.**
- 2) A literal enforcement of the ordinance would result in unnecessary hardship in that **a literal enforcement would require that the property owner to remove four feet of the carport, rendering it useless.**
- 3) The spirit of the ordinance is observed and substantial justice is done in that **the intent of the setback, to provide protection, has been achieved through metal construction and gutters.**
- 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 **applicant has added gutters for the protection of the neighbor.**
- 6) The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property in that **the carport has existed in that location for ten years without incident.**

The motion was seconded by **Mr. Martinez**.

AYES: Finlay, Martinez, Quijano, Neff, Ojeda, Britton, Teel, Garcia, Gragg, Rodriguez, Rogers

NAYS: None

THE VARIANCE IS GRANTED.

CASE NO. A-16-127

Applicant – Javier Rios
Lot 11, Block 119, NCB 15273
5534 Cool Valley Drive
Zoning: “NP-8 AHOD” Neighborhood Preservation Airport Hazard

Request

The applicant is requesting 20 foot variance from the 30 foot platted front setback, per Section 35-516, to allow a carport to be 10 feet from the front property line.

Shepard Beamon, Planner, presented background and staff’s recommendation of approval of the requested variance. He indicated 31 notices were mailed, one was returned in favor and none were returned in opposition and no response from the People Active in Community Effect Neighborhood Association.

Javier Rios, applicant, stated the carport would protect his vehicles from inclement weather. He also stated there are similar carports in the neighborhood.

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-16-127 closed.

MOTION

A motion was made by **Mr. Martinez**. Regarding Appeal No. **A-16-127**, a request for an **18 foot variance from the 30 foot platted front setback to allow a carport to be 12 feet from the front property line**, subject property description **Lot 11, Block 119, NCB 15273**, situated at **5531 Cool Valley Street**, applicant being **Javier Rios**. 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 minimum setbacks that help to establish uniform and safe development within the City of San Antonio. Five other homes on the block have carports that encroach into the front setback. Because it does not encroach into the side setback and because the design will be ten feet from the front property line, staff finds that the request is not contrary to the public interest.**
- 2) Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the literal enforcement of the ordinance would result in the applicant not having any space for a carport. Staff finds that this results in an unnecessary hardship.**
- 3) The spirit of the ordinance is observed and substantial justice is done in that **granting the requested variance will result in substantial justice in that the property owner will be able to build a carport to protect their vehicles, just as several other home owners on the block have. Furthermore, the spirit of the ordinance is observed in that the carport meets side setbacks, does not pose a fire risk, and will not drain water onto adjacent properties.**
- 4) Such variance will not authorize the operation of a use other than those uses specifically authorized in the **"NP-8 AHOD" Neighborhood Preservation Airport Hazard Overlay District.**
- 5) Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located in that **the adjacent properties are unlikely to be negatively affected by the requested changes in that the proposed carport design meets the side setback.**
- 6) The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, in that **the plight of the owner of the property is the platted front setback. The plight of the owner is not merely financial in nature.**

The motion was seconded by **Mr. Rodriguez.**

AYES: Martinez, Rodriguez, Quijano, Neff, Ojeda, Britton, Teel, Finlay, Garcia, Gragg, Rogers

NAYS: None

THE VARIANCE IS GRANTED.



CASE NO. A-16-119

Applicant – William and Anita Lowry
Lot 18, Block 6, NCB 18656
7326 Deep Spring Drive
Zoning: “R-6 AHOD” Residential Single-Family Airport Hazard Overlay District

Request

The applicant is requesting 1) a five foot variance from the five foot side setback, as described in Section 35-370(b)(1), to allow an accessory structure with an eave to remain on the side property line and 2) a five foot variance from the five foot rear setback, as described in Section 35-370(b)(1), to allow an accessory structure with an eave to remain on the rear property line.

Shepard Beamon, Planner, presented background and staff’s recommendation of approval of the requested variance. He indicated 20 notices were mailed, 2 were returned in favor and one was returned in opposition.

William Lowry, applicant, stated the previous shed was closer to the fence and the shed needed to be replaced due to being dilapidated. He also stated there was a secondary wall placed for fire protected. He further stated the structure will be used for storage only and is willing to place gutters on the shed.

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-16-119 closed.

MOTION

A motion was made by **Mr. Neff**. Regarding Appeal No. A-16-119, a request for **1) a five foot variance from the five foot side setback to allow an accessory structure with an eave to remain on the side property line and 2) a five foot variance from the five foot rear setback to allow an accessory structure with an eave to remain on the rear property line**, subject property description **Lot 18, Block 6, NCB 18656**, situated at **7326 Deep Spring**, applicant being **William and Anita Lowry**. 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 eliminate risks for health and safety hazard for surrounding properties, of which the applicant has**

addressed through fire rating. The structure in its current location will not disrupt the character of the surrounding neighborhood, as it is replacing an existing structure. The owner has gone preventative measures to ensure safety and reduce any fire-risk for surrounding properties including two exterior layers of cementitious Hardi-Plank on the side and eave overhangs.

- 2) Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that the applicant is requesting the variance to replace existing older shed that was dilapidated and has been in the same location for over 40 years. The rear and side yard setbacks, the shallow rear yard, and having to remain three feet from the existing swimming pool, which was built over 20 years ago, imposes a limitation of building size to construct a reasonably sized accessory building. A literal enforcement would result in the applicant not being permitted to have an area of storage on the property, creating an unnecessary hardship.
- 3) The spirit of the ordinance is observed and substantial justice is done" in that the applicant has fire rated the building and provided room for maintenance without trespassing on the neighboring property.
- 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 accessory building is detached and located in the rear yard. The applicant has fire rated the building, including all eave overhangs. There is also a foot clearance between the building and the rear and side fence, which does allow for maintenance without trespassing. The accessory building has little visibility from the street and does not detract from the overall character of the neighborhood. The applicant has stated that he is willing to install gutters if needed to prevent water runoff on the adjacent 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, because the structure is replacing an existing accessory building that is limited in size due to a shallow rear yard and the required side and rear setbacks.

The motion was seconded by Mr. Martinez.

AYES: Neff, Martinez, Quijano, Ojeda, Britton, Teel, Zuniga, Garcia, Gragg, Rodriguez, Rogers

NAYS: None

THE VARIANCE IS GRANTED.



CASE NO. A-16-125

Applicant – Andrew Jacoby

Lot S 35.5 FT of 11 and 12, Block C, NCB 6017

727 South Trinity Street

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

Request

The applicant is requesting 1) a 15 foot variance from the 20 foot zoning rear setback, per Section 35-310, to allow a home to be five feet from the rear property line and 2) a variance from the "R-4" Residential Single-Family zoning maximum of two and a half story construction, per Section 35-310, to allow three habitable levels.

Shepard Beamon, Planner, presented background and staff's recommendation of approval of the requested variances. He indicated 45 notices were mailed, none were returned in favor and none were returned in opposition and no response from the Avineda Guadalupe Neighborhood Association.

Andrew Jacoby, applicant, stated

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-16-125 closed.

MOTION

A motion was made by **Mr. Martinez**. Regarding Appeal No. **A-16-125**, a request for **1) a 15 foot variance from the 20 foot zoning rear setback to allow a home to be five feet from the rear property line and 2) a variance from the "R-4" Residential Single-Family zoning maximum of two and a half story construction to allow three habitable levels**, subject property description **Lot S. 35.5 ft. of 11 and 12, Block C, NCB 6017**, situated at **727 S. Trinity Street**, applicant being **Andrew Jacoby**. 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 and height limitations to protect property owners and eliminate risks for health and safety hazards for surrounding properties, and to encourage**

compatible development within our communities. The lot is only 2,304 square feet in area; development on a lot this small is challenging. The requested five foot setback meets fire code. Many of the lots in this neighborhood do not meet minimum lot size or the required 20 foot rear setback. Furthermore, the site plan meets the setback requirements for a reverse corner lot. The second variance request seeks to allow three habitable levels, rather than the maximum two and a half stories set forth in the code. Despite being three stories tall, the applicant's design meets the 35 foot maximum height limitation. Staff finds that the request to build three habitable levels is not contrary to the public interest.

- 2) Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that the lot, currently described as only a portion of two platted lots, is only 2,304 square feet in area. Developing a home on the lot is challenging. The proposed site plan that meets both front setbacks and the side setback, but needs relief from the 20 foot rear. Further, because the lot is so small, the applicant has designed a home that extends upwards, rather than outwards. A literal enforcement of the ordinance would result in a barely developable lot.
- 3) The spirit of the ordinance is observed and substantial justice is done in that the proposed site plan meets fire standards. Additionally, the height of the structure is buffered by the presence of the abutting properties – both of which are two stories tall.
- 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 abutting properties are two story as well and it is unlikely that the presence of a three story structure will detract from the essential character of the district, especially considering that the proposed design meets the maximum 35 foot height. Also, several other properties on the same block fail to meet the required 20 foot rear setback.
- 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 size of the lot. This is not the fault of the owner, nor is this problem merely financial in nature.

The motion was seconded by Mr. Neff.

AYES: Martinez, Neff, Quijano, Ojeda, Britton, Teel, Finlay, Garcia, Gragg, Rodriguez, Rogers

NAYS: None

THE VARIANCE IS GRANTED.



CASE NO. A-16-128

Applicant – Alicia Avila
Lot 5, Block 54, NCB 3653
3506 Morales Street
Zoning: “R-4 AHOD” Residential Single-Family Airport Hazard Overlay District

Request

The applicant is requesting a five foot variance from the required 20 foot rear setback, as described in Section 35-310.01, to allow a dwelling to have a 15 foot rear setback.

Shepard Beamon, Planner, presented background and staff’s recommendation of approval of the requested variance. He indicated 20 notices were mailed, one was returned in favor and none were returned in opposition and no response from the Prospect Hill Neighborhood Association.

Julio Avila, applicant, stated he built the addition in line with the existing structure. He also stated the addition will allow for him and his family to live with his mother so that they can help her. He further stated he understands that permits will need to be obtained prior to the construction.

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-16-128 closed.

MOTION

A motion was made by **Mr. Rodriguez**. Regarding Appeal No. A-16-128, a request for a **five foot variance from the required 20 foot rear setback to allow a dwelling to have a 15 foot rear setback**, subject property description **Lot 5, Block 54, NCB 3653**, situated at **3506 Morales Street**, applicant being **Alicia Avila**. 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 minimum setbacks that help to establish uniform and safe development within the City of San Antonio. Because the applicant is able to count half the depth of the alley towards the rear setback requirement, the applicant only needs a five foot reduction in the rear setback to permit the addition. Some single-family residential**

zoning districts allow for as little as ten foot rear setbacks. Staff finds that this slight deviation from the requirement is not contrary to the public interest.

- 2) Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that the applicant wishes to convert an existing structure into a dwelling unit, with an addition to it. The existing accessory structure has been located in that place for years and it is unlikely that allowing the conversion will cause any harm. A literal enforcement of the ordinance would result in the applicant having to establish an alternative design.**
- 3) The spirit of the ordinance is observed and substantial justice is done in that granting the requested variance will result in substantial justice in that the property owner will be able to build the addition while adhering to the intent of the ordinance. The addition will be built to code and meet all fire requirements. Additionally, the addition does not encroach into any side yard 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 adjacent properties are unlikely to be negatively affected by the requested changes in that the proposed carport design meets the side setback.**
- 6) The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, in that the plight of the owner of the property is that they are converting a structure into a dwelling unit. The structure alone meets the five foot rear setback, but the conversion into a dwelling unit triggers a 20 foot rear setback. Further, the applicant is only seeking a five foot variance.**

The motion was seconded by Mr. Martinez.

AYES: Rodriguez, Martinez, Quijano, Neff, Ojeda, Britton, Teel, Finlay, Garcia, Gragg, Rodriguez, Rogers

NAYS: None

THE VARIANCE IS GRANTED.

The July 25, 2016 Board of Adjustment minutes.

Director's Report

There being no further discussion, meeting adjourned at 4:06 pm.

APPROVED BY: Mary Rogers OR _____
Mary Rogers, Chairwoman John Kuderer, Vice-Chair

DATE: _____

ATTESTED BY: Melvin King DATE: 8-22-16
Executive Secretary