

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
September 19, 2016**

Members Present:

Mary Rogers
John Kuderer
Roger Martinez
Frank Quijano
Alan Neff
Denise Ojeda
George Britton
Maria Cruz
Jesse Zuniga
Henry Rodriguez
Jeffrey Finlay

Staff:

Catherine Hernandez, Planning Manager
Logan Sparrow, Senior Planner
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.

Roman Javier, from World Wide Translators was present.

Mr. Kuderer made a motion to move case No A-16-151 to the beginning of the agenda.

CASE NO. A-16-151

Applicant – Jose Esparza
Lot 61, Block 5, NCB 14451
6130 Topcroft Drive
Zoning: “R-6 AHOD” Residential Single-Family Airport Hazard Overlay District

Request

The applicant is requesting a 20 foot variance from the 30 foot platted front setback, as described in Section 35-516 (O), 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 17 notices were mailed, one was returned in favor and none were returned in opposition.

Jose Esparza, applicant, stated the variance is needed for additional parking spaces and protection of his vehicles.

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-16-151 closed.

MOTION

A motion was made by **Mr. Rodriguez**. Regarding Appeal No. **A-16-151**, a request for a **20 foot variance from the 30 foot platted front setback, as described in Section 35-516 (O), to allow a carport to be 10 feet from the front property line**, subject property description **Lot 61, Block 5, NCB 14451**, situated at **6130 Topcroft Drive**, applicant being **Jose Esparza**. I move that the Board of Adjustment grant the applicant's request for variances to the subject property as described above, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship. Specifically, we find that:

- 1) 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 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 is within the side setbacks and does not encroach into the UDC front setback.**
- 2) Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the special condition in the case is the location of the home and the availability to store and protect vehicles. The home is located in such that it does not allow for parking along the side or in the rear, as the lot has an irregular shape. Also, the garage has been converted into additional family living space which leaves the owner's vehicles exposed to the elements in the uncovered front driveway.**
- 3) The spirit of the ordinance is observed and substantial justice is done in that **granting the requested variance will result in substantial justice as the carport complies with the side and front setback established by the UDC. Additionally, water runoff is unlikely to occur on to the neighboring property and the building material will not increase fire hazard.**
- 4) Such variance will not authorize the operation of a use other than those specifically permitted 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 is being constructed adhere to the UDC required 10 foot front setback, and**

will not interfere with the vision and safety of the neighboring property. Further, the carport does not encroach into the side setback and will not require trespass for maintenance. Staff finds this carport will not alter the essential character of the district as there are several carports on the same street as the subject 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, which in this case, **is the location of the home on the property. The configuration of the home does not permit parking on the side or rear of the property, and the home is built up to the 30 foot platted setback, leaving no options but to build a carport within this platted front setback.**

The motion was seconded by **Ms. Cruz.**

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

NAYS: None

THE VARIANCE IS GRANTED.

CASE NO. A-16-145

Applicant – Michael Perez
1123 S. Presa Street

East 146 ft. of Lot 4, NCB 2962

Zoning: “IDZ NCD-1 AHOD” Infill Development Zone S. Presa/S. St. Mary’s Neighborhood Conservation Airport Hazard Overlay District with uses permitted for three single-family units

Request

The applicant is requesting a variance from the S. Presa/S. St. Mary’s Neighborhood Conservation District (NCD) standards which restrict the number of stories to 2.5 to allow 3 story structures.

Margaret Pahl, Senior Planner, presented background and staff’s recommendation of approval of the requested variance. She indicated 28 notices were mailed, none were returned in favor and one was returned in opposition and the Lavaca & King William Neighborhood Associations returned letters of support.

Michael Perez, applicant, stated he is requesting the variance for three stories but will maintain the thirty five foot height design standards for the Neighborhood Conservation District.

Cotton Estes, representative, stated the carport wall will be enclosed near the street so that it has a more attractive façade look so that it feels part of the structure instead of an added wall steel structure that exposes the car. She also stated as far as the height limit they feel the proposes

meets the intent of the guidelines because the roof heights and slopes are varied in order to achieve a third story roof print that's roughly half of the first story footprint in all three units.

The following citizens appeared to speak:

Cherise Bell, representative for King William Neighborhood Association, expressed her concerns with the development.

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-16-145 closed.

MOTION

A motion was made by **Mr. Martinez**. Regarding Appeal No **A-16-145**, a request variances from the **S. Presa/S. St. Mary's Neighborhood Conservation District (NCD) standards which restrict the number of stories to 2.5 to allow 3 story structures**, subject property description **East 146 ft. of Lot 4, NCB 2962**, situated at **1123 S. Presa Street**, applicant being **Michael Perez**. I move that the Board of Adjustment grant the applicant's request for variances to the subject property as described above, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship. Specifically, we find that:

- 1) 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 number of stories allowed (2.5 stories) and the allowable building height (35 feet). The construction plan does not require additional height (above 35 feet) and is therefore, 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 require that the construction be limited to 2.5 stories. The literal enforcement of this limitation creates an unnecessary hardship, by eliminating off-street parking spaces. While providing parking is not a requirement of the IDZ district, the lack of parking constitutes an unnecessary hardship.**
- 3) The spirit of the ordinance is observed and substantial justice is done in that **the spirit of the ordinance is the intent. By identifying a specific building height, the intent is clarified. Allowing the applicant to construct the third story while staying within the maximum building height of 35 feet honors the intent of the limitation.**
- 4) Such variance will not authorize the operation of a use in that **the requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the "IDZ NCD-1 AHOD" Infill Development Zone S. Presa/S. St. Mary's Neighborhood Conservation Airport Hazard Overlay District.**

- 5) Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located in that **the proposed project mimics the three homes immediately adjacent, while preserving mature trees on site and creating outdoor living area for each home. The variance will not detract because the overall height is not increased.**
- 6) The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, which in this **the unique circumstances on the property are the location of three mature trees that are proposed for preservation.**

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

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

NAYS: None

THE VARIANCE IS GRANTED.

CASE NO. A-16-150

Applicant – Mario Gonzalez

1226 S. Presa Street

Lots 7, 8, 14, 15, 16, A-17, A-18, A-19, A-20, Block 7, NCB 734

Zoning: "IDZ NCD-1 AHOD" Infill Development Zone S. Presa/ S. St. Mary's Neighborhood Conservation Airport Hazard Overlay District with uses permitted in C-2 Commercial and MF-70 Multi-Family and "IDZ H AHOD" Infill Development Zone Lavaca Historic Airport Hazard Overlay District with uses permitted in C-2 Commercial and MF-70 Multi-Family

Request

The applicant is requesting variances from the S. Presa/S. St. Mary's Neighborhood Conservation District (NCD-1) standards 1) which limit building height to 2.5 stories and 35 feet to allow 3 story buildings up to 39 feet in height; and 2) which prohibit attached garages in order to allow them.

Margaret Pahl, Senior Planner, presented background and staff's recommendation of approval of the requested variance. She indicated 37 notices were mailed, one was returned in favor and none were returned in opposition and the Lavaca and King William Neighborhood Associations returned letters of supports.

The following citizens appeared to speak:

Manuel Gonzalez, citizen, spoke in opposition.

Cherise Bell, representative for King William Neighborhood Association, is in favor.

Kirsten Gardner, citizen, spoke in opposition.

Rose Gonzalez, citizen, spoke in opposition.

Carlos Nunez, citizen, spoke in opposition.

Stacy Lopez Penner, citizen, spoke in opposition.

Karen Mahaffey, citizen, expressed her concerns with the development.

Cathy Brawley, citizen, expressed her concerns with the three story development.

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-16-150 closed.

1st MOTION

A motion was made by **Mr. Rodriguez**. Regarding Appeal No **A-16-150**, a request variances from the **S. Presa/S. St. Mary's Neighborhood Conservation District (NCD-1)** standards which limit building height to 2.5 stories and 35 feet to allow 3 story buildings up to 39 feet in height, subject property description Lots 7, 8, 14, 15, 16, A-17, A-18, A-19, A-20, Block 7, NCB 734, situated at **1226 S. Presa Street**, applicant being **Mario Gonzalez**. I move that the Board of Adjustment grant the applicant's request for variances to the subject property as described above, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship. Specifically, we find that:

- 1) 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 overlay standards which aim to require compatible infill. The applicant is seeking variances to allow for off-street parking, a goal consistent with the public interest. This offstreet parking is located on the first floor of a three story building, making both variances linked to offstreet parking.**
- 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 require that the construction be limited to 2.5 stories, eliminating the potential to provide off-street parking. The literal enforcement of this limitation creates an unnecessary hardship by preventing the provision of attached garages, an amenity desired in this.**
- 3) The spirit of the ordinance is observed and substantial justice is done in that **the spirit of the ordinance is represented by the intent to prohibit incompatible infill adjacent to a single story historic home along a corridor not designated as a historic district. The size and**

location of this parcel, coupled with the specific accommodation made for the adjacent residential homes, make these variances consistent with the intent of the NCD.

- 4) Such variance will not authorize the operation of a use in that **the requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the "IDZ NCD-1 AHOD" Infill Development Zone S. Presa/S. St. Mary's Neighborhood Conservation Airport Hazard Overlay District with uses permitted in "C-2" Commercial and "MF-70" Multi-Family.**
- 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 project design is sensitive to the neighboring uses and existing buildings. The taller buildings are proposed on the project edge across from the Florida Park and a busy neighborhood collector. Staff recommends that the variances will not injure the 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, which in this **the size of the site and its location along a commercial corridor make the design specifics challenging. As a result, the applicant has selected several types of houses for the property, including townhomes, a design not contemplated in the design standards. Not that this is dealing with the first portion of the property which faces S Presa and Florida St.**

The motion was seconded by Mr. Finaly.

AYES: Martinez, Finlay, Neff, Britton, Zuniga, Kuderer, Rogers

NAYS: Quijano, Ojeda, Cruz, Rodriguez

MOTION FAILS.

2nd MOTION

A motion was made by Mr. Kuderer. Regarding Appeal No A-16-150, a request variances from the S. Presa/S. St. Mary's Neighborhood Conservation District (NCD-1) standards which prohibit attached garages in order to allow them, subject property description Lots 7, 8, 14, 15, 16, A-17, A-18, A-19, A-20, Block 7, NCB 734, situated at 1226 S. Presa Street, applicant being Mario Gonzalez. I move that the Board of Adjustment grant the applicant's request for variances to the subject property as described above, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship. Specifically, we find that:

- 1) Such variance will not be contrary to the public interest in that **the applicant is seeking variances to allow for off-street parking, a goal consistent with the public interest. This offstreet parking is located on the first floor of different story buildings to be determined, making both variances linked to offstreet parking.**

- 2) Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the literal enforcement of the ordinance of this limitation creates an unnecessary hardship by preventing the provision of attached garages, an amenity desired in this.**
- 3) The spirit of the ordinance is observed and substantial justice is done in that **the spirit of the ordinance is represented by identifying an intent to prohibit incompatible infill development adjacent to a single story historic home along a corridor not designated as a historic district. The size and location of this parcel, coupled with the specific accommodation made for the adjacent residential homes, make these variances consistent with the intent of the NCD.**
- 4) Such variance will not authorize the operation of a use in that **the requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the "IDZ NCD-1 AHOD" Infill Development Zone S. Presa/S. St. Mary's Neighborhood Conservation Airport Hazard Overlay District with uses permitted in "C-2" Commercial and "MF-70" Multi-Family.**
- 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.
- 6) The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, which in this **the size of the site and its location along a commercial corridor make the design specifics challenging.**

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

AYES: Kuderer, Martinez, Quijano, Neff, Britton, Zuniga, Finlay, Rodriguez, Rogers

NAYS: Ojeda, Cruz

THE MOTION PASSES.

Board members recessed for 10 minutes.

CASE NO. A-16-162

Applicant – Efraim Varga

1511-1519 S. Presa Street

Lots 1, 2, 3, & E. IRR 47 ft. of Lot 4, Block 1, NCB 3097

Zoning: "IDZ NCD-1 AHOD" Infill Development Zone S. Presa/ S. St. Mary's Neighborhood Conservation Airport Hazard Overlay District with uses permitted in "MF-18" Multi-Family Residential uses up to 10 units

Request

The applicant is requesting a variance from the S. Presa/S. St. Marys Neighborhood Conservation District (NCD-1) to include: 1) the prohibition of attached garages; 2) the requirement that a porch comprise at least one-third the width of the front façade; 3) to allow a window in the principal elevation which does not satisfy the 2:1 vertical ratio; 4) the 2.5 story limitation to allow 3 stories; and 5) the requirement that homes be within 20% of the block median setback of 24 feet to allow new homes which are no closer than 7 feet.

Margaret Pahl, Senior Planner, presented background and staff's recommendation of approval of the requested variance. She indicated 45 notices were mailed, none were returned in favor and one was returned in opposition and the Lavaca and King William Neighborhood Associations are in support.

Efraim Varga, applicant, stated he already obtained building permits and started some site work when he was informed that he was not allowed to have development of two and a half story buildings. He also stated there was some miscommunication from the city with what was allowed.

The following citizens appeared to speak:

Cherise Bell, representative for King William Neighborhood Association, expressed her concerns with the development.

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-16-162 closed.

MOTION

A motion was made by **Mr. Martinez**. Regarding Appeal No **A-16-162**, a requested variance from the S. Presa/S. St. Marys Neighborhood Conservation District (NCD-1) to include: 1) the prohibition of attached garages; 2) the requirement that a porch comprise at least one-third the width of the front façade; 3) to allow a window in the principal elevation which does not satisfy the 2:1 vertical ratio; 4) the 2.5 story limitation to allow 3 stories; and 5) the requirement that homes be within 20% of the block median setback of 24 feet to allow new homes which are no closer than 7 feet, subject property description Lots 1, 2, 3, & E. IRR 47 ft. of Lot 4, Block 1, NCB 3097, situated at 1511-1519 S. Presa Street, applicant being **Efraim Varga**. I move that the Board of Adjustment grant the applicant's request for variances to the subject property as described above, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship. Specifically, we find that:

- 1) 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 allowable building height, median setback, detached garage in rear yard and a wide porch on the front façade. The construction plan does not require additional**

height, includes off-street parking that is not required, has balconies for interaction and enough corner streetscape to make the setback cohesive. Therefore, the project as proposed 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 require that the applicant deviate significantly from the site plan that was presented to the Zoning Commission and approved by the City Council. This literal enforcement creates an unnecessary hardship.**
- 3) The spirit of the ordinance is observed and substantial justice is done in that **granting the requested variances will allow the project to proceed as anticipated by the City Council, the notified adjacent property owners and buyers with earnest money reservations.**
- 4) Such variance will not authorize the operation of a use in that **the requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the "IDZ NCD-1 AHOD" Infill Development Zone S. Presa/S. St. Mary's Neighborhood Conservation Airport Hazard Overlay District.**
- 5) Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located in that **the design includes the introduction of modern architecture into a traditional neighborhood of single family residential structures, primarily built over 70 years ago. While the proposed design is inconsistent with the assumed goal of the NCD, it is a large enough project to create the character of this section of the district. In addition, the applicant is hoping to expand the project to the corner just south on recently rezoned property, potentially requiring future variances.**
- 6) The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, which in this **the owner purchased a large corner gas station that had been closed since prior to 2002. The property was rezoned with a site plan to allow 10 homes served by a private lane. Hazardous waste clean-up, architectural design and subdivision platting proceeded without knowledge of issues triggered by the NCD. The owner of the property has currently cleaned up disaster in the making with the leaking gas from the gas station.**

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

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

NAYS: None

THE VARIANCE IS GRANTED.



Mr. Rodriguez departed the board room.

CASE NO. A-16-154

Applicant – Meritage Homes of Texas LP

Lot 7, Block 43, NCB 14861

13027 Tulip Farm

Zoning: “R-5 MLOD” Residential Single-Family Military Lighting Overlay District

Request

The applicant is requesting a 1’5” variance from the 45 foot minimum lot width for a property zoned “R-5” Residential Single-Family, as described in Section 35-310.01, to allow the lot to be 43’7” wide.

Logan Sparrow, Senior Planner, presented background and staff’s recommendation of approval of the requested variance. He indicated 25 notices were mailed, none were returned in favor and two were returned in opposition.

Patrick Christensen, representative, stated the lot meets all the requirements. He also stated the structural engineer placed the foundation of the house to close to the front of the lot. He further stated if the house was moved eight inches to the rear they would be in compliance. According to Meritage Homes the house would need to be demolished if they eight inches in the front would be cut off to meet setback requirements and would make the garage too short.

The following citizens appeared to speak:

Alejandro De La Fuente, citizen, spoke in opposition.

Tino Caballero, citizen, 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-16-154 closed.

MOTION

A motion was made by **Mr. Finlay**. Regarding Appeal No. **A-16-154** a request for a **1’5” variance from the 45 foot minimum lot width for a property zoned “R-5” Residential Single-Family to allow the lot to be 43’7” wide**, subject property description **Lot 7, Block 43, NCB 14861**, located at **13027 Tulip Farm**, applicant being **Meritage Homes of Texas, LP** 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 **such variance will not be contrary to the public interest in that the public interest is represented by minimum lot widths to ensure consistency in development within the community. Staff finds that the 1'5" difference is unlikely to ever go noticed and, therefore, is not contrary to the public interest.**
- 2) A literal enforcement of the ordinance would result in unnecessary hardship in that **the special condition present in this case is that the irregular shape of the lot. To achieve the required width, the dwelling has to be located further back on the lot. And while the dwelling is set back further than others, it fails to meet the width requirement by less than two feet. A literal enforcement of the ordinance would require that the house be pushed deeper into the lot to meet the 45' width, which would place the dwelling out of compliance with the rear zoning setback. Staff finds that this would result in an unnecessary hardship.**
- 3) The spirit of the ordinance is observed and substantial justice is done in that **it will allow the development of the home to proceed. Because the reduced width is hardly noticeable staff finds that approval of the variance request would result in substantial justice.**
- 4) Such variance will not authorize the operation of a use other than those uses specifically authorized in that **those specifically permitted in the "R-5 MLOD" Residential Single-Family Military Lighting 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 variances are unlikely to detract from the essential character of the community. Nothing about the development in this lot seems different than others and the side setbacks are all met.**
- 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 unique circumstance present in this case is the irregularly shaped lot which introduces an additional design challenge.**

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

AYES: Finlay, Kuderer, Martinez, Quijano, Neff, Ojeda, Britton, Cruz, Zuniga, Rogers

NAYS: None

THE VARIANCE IS GRANTED.



CASE NO. A-16-144

Applicant – Angel de Luna

Lot 6, Block 8, NCB 13701

4346 Sunshadow Drive

Zoning: “NP-10 AHOD” Neighborhood Preservation Airport Hazard Overlay District

Request

The applicant is requesting a 20 foot variance from the 30 foot platted front setback to allow a home addition and a carport to be as close as 10 feet from the front property line. He also stated he the addition is for another restroom for the home.

Shepard Beamon, Planner, presented background and staff’s recommendation of approval of the requested variance. He indicated 38 notices were mailed, 4 were returned in favor and none were returned in opposition.

Angel de Luna, applicant, stated he is requesting the carport for protection from the weather.

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-16-144 closed.

MOTION

A motion was made by **Mr. Neff**. Regarding Appeal No. **A-16-144**, A request **from the 30 foot platted front setback to allow a home addition and a carport to be as close as 10 feet from the front property line**, subject property description **Lot 6, Block 8, NCB 13701**, situated at **4346 Sunshadow Drive**, applicant being **Angel de Luna**. I move that the Board of Adjustment grant the applicant’s request for variances to the subject property as described above, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship. Specifically, we find that:

- 1) 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 setbacks that help to ensure that we have uniform, safe development within the City of San Antonio. The proposed carport and home addition will not encroach into the City’s required 10 foot front setback.**
- 2) Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **there are several homes on the same street that have carports. The**

literal enforcement of the ordinance would result in the property owner not being able to enjoy a carport similarly to the surrounding property owners.

- 3) The spirit of the ordinance is observed and substantial justice is done in that **granting the requested variance will result in substantial justice as the addition and carport will meet the side setback requirement and would not increase the risk of fire spread and water runoff to adjacent properties.**
- 4) Such variance will not authorize the operation of a use other than those specifically permitted in the **“NP-10 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 home addition and carport will not increase the water runoff, will not increase risk of fire spread to adjacent conforming properties, and provides adequate space for maintenance without trespass. Additionally, there are currently homes within this neighborhood that also have carports that encroach into the platted front 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, which in this case, **due to the 30 foot platted front setback, the owner is unable to modify or add on to their home. Additionally, the carport will provide protection from the inclement weather conditions.**

The motion was seconded by Ms. Cruz.

AYES: Neff, Cruz, Martinez, Quijano, Ojeda, Britton, Zuniga, Kuderer, Rogers

NAYS: None

THE VARIANCE IS GRANTED.

Mr. Ojeda departed the board room.

CASE NO. A-16-148

Applicant – Margaret Carlyle

Lot 28, Block 31, NCB 16738

4342 Putting Green Drive

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

MOTION

A motion was made by **Mr. Kuderer to continue to case until the October 3, 2016 Board of Adjustment meeting and place it at the beginning of the agenda.** The motion was seconded by **Mr. Finlay.**

AYES: Kuderer, Martinez, Quijano, Neff, Ojeda, Britton, Cruz, Zuniga, Rogers

NAYS: None

THE MOTION PASSES.

CASE NO. A-16-142

Applicant – Blanca Tellez

Lot 20, Block 9, NCB 3216

136 Uvalde Street

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

Request

The applicant is requesting a 20 foot variance from the required 20 foot rear setback, as described in Section 35-310.01, to allow a building addition that is on the rear property line to remain.

Shepard Beamon, Planner, presented background and staff's recommendation of denial with an alternate recommendation of the requested variance. He indicated 28 notices were mailed, none were returned in favor and none was returned in opposition.

Jonathan Tellez, applicant, stated the lot was divided where the carport existed prior to his mother purchasing the home. He also stated after they obtained permits for the repair of the existing carport they were informed that this carport was a rebuild not a repair.

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-16-137 closed.

MOTION

A motion was made by **Mr. Kuderer**. Regarding Appeal No. **A-16-142**, a request for a **10 foot variance from the required 10 foot rear setback, as described in Section 35-310.01, to allow a building addition that is on the rear property line to remain**, subject property description **Lot 20, Block 9, NCB 3216**, situated at **136 Uvalde**, applicant being **Blanca Tellez**. I move that the Board of Adjustment grant the applicant's request for variances to the subject property as described above, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship. Specifically, we find that:

- 1) Such variance will not be contrary to the public interest in that **the public interest is represented by the public interest is represented by setbacks that help to ensure that we have uniform, safe development within the City of San Antonio. The request is not contrary to the public interest in that it allows the applicant to rehabilitate an existing carport and does not encroach into the public right-of-way or interfere with Clear Vision.**
- 2) Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the literal enforcement would greatly narrow the amount of parking space and not provide the owner adequate space for parking a vehicle on the subject property as well as his handicapped father.**
- 3) The spirit of the ordinance is observed and substantial justice is done in that **it allows the applicant to replace an existing carport that has been on the property dating back to 2003.**
- 4) Such variance will not authorize the operation of a use other than those specifically permitted in that **the operation of a use other than those specifically permitted in the "NP-10 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 carport has been constructed to match the character of the existing home and does conflict with the character of the surrounding 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, which in this case, **which in this case is the narrow rear driveway that does not allow both adequate spacing for parking and the required 20 foot rear setback.**

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

AYES: Kuderer, Martinez, Quijano, Neff, Britton, Cruz, Zuniga, Finlay, Rogers

NAYS: None

THE VARIANCE IS GRANTED.

CASE NO. A-16-143

Applicant – ACL Creek Ventures, LLC

Lot P-6, NCB 15688

Generally located northwest of the Higgins Road and Bromley Place Intersection

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

Request

The applicant is requesting a five foot variance from the ten foot required side setback opposite a zero lot line property, as described in Section 35-373(c)(5)(A), to allow a community with five foot side setbacks opposite a zero lot line rather than ten foot side setbacks and 2) a request for a variance from the provision that states that a zero lot line property shall not abut a non-zero lot line property, as described in Section 35-373(c)(5)(B), to allow a total of four (4) zero lot line properties to abut non-zero lot line properties.

Logan Sparrow, Senior Planner, presented background and staff's recommendation of approval of the requested variance. He indicated 62 notices were mailed, none were returned in favor and one was returned in opposition and no response from the El Chaparral Fertile Valley Neighborhood Association.

Steven Lind, representative, stated this site has been vacant for almost five years and has just recently been purchased by his client. He also stated the previous owner had started on the infrastructure. He further stated the applicant

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-16-143 closed.

MOTION

A motion was made by **Mr. Neff**. Regarding Appeal No. **A-16-143**, a request for 1) **a five foot variance from the ten foot required side setback opposite a zero lot line property to allow a community with five foot side setbacks opposite a zero lot line rather than ten foot side setbacks** and 2) **a request for a variance from the provision that restricts a zero lot line lot abutting a non-zero lot line property to allow a total of four (4) zero lot line properties that abut non-zero lot line properties**, subject property description **Lot P-6, NCB 15688, generally located northwest of the Higgins Road and Bromley Place intersection**, applicant being **ACL Creek Ventures, LLC**. I move that the Board of Adjustment grant the applicant's request for variances to the subject property as described above, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship. Specifically, we find that:

- 1) Such variance will not be contrary to the public interest in that **the public interest is represented by lot layout standards that ensure compatible development within the city of San Antonio. Staff reviewed the request with the City's Fire Protection team. That team found that the request does meet the minimum five foot spacing requirement to ensure fire separation safety. Further, because the rest of the subdivision will eventually be re-platted into a zero lot line community, staff finds that the second variance request is only temporary in nature and, therefore, 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 request is temporary in nature because the balance of the community will be later re-platted into a zero lot line neighborhood.**
- 3) The spirit of the ordinance is observed and substantial justice is done in that **the proposed development will still meet fire safety codes. Further, substantial justice will be observed as it will allow the applicant to proceed with their subdivision and later re-plat the remaining portion of the community into a zero lot line community.**
- 4) Such variance will not authorize the operation of a use other than those specifically permitted in the **“MF-33 AHOD” Multi-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 **eventually the entire community will be arranged in a zero lot line layout.**
- 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 request is temporary and the proposed development still meets fire safety codes. This is not the fault of the owner of the property, nor is the request merely financial in nature.**

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

AYES: Neff, Britton, Martinez, Quijano, Cruz, Zuniga, Finlay, Kuderer, Rogers

NAYS: None

THE VARIANCE IS GRANTED.

The August 22, 2016 Board of Adjustment minutes were approved.

Director's Report

There being no further discussion, meeting adjourned at 6:09 pm.

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

DATE: 11-7-16

ATTESTED BY: William Fay DATE: 12/6/16
Executive Secretary