

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
October 3, 2016**

Members Present:

John Kuderer
Frank Quijano
Alan Neff
Denise Ojeda
George Britton
Maria Cruz
George Britton
Roger Martinez
Jeffrey Finlay
Paul Klein
Jay Gragg

Staff:

Catherine Hernandez, Planning Manager
Logan Sparrow, Senior Planner
Paul Wendland, City Attorney
Margaret Pahl, Senior Planner
Shepard Beamon, Planner

Call to Order

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

Mr. Kuderer, called the meeting to order and called roll of the applicants for each case.

Arianne Villanueva, World Wide Translators, was present.

Mr. Rodriguez made a motion to move case A-16-158 to the beginning of the case list for Spanish Translation.

All members voted in the affirmative.

Case Number: A-16-158

Applicant: Edizon Estrada

Location: 4422 Commercial Avenue

Legal Description: Lot 6, Block 61, NCB 11145

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

Request

A request for 1) a five foot variance from the 10 foot front setback, as described in 35-310.01, to allow two carports to be five (5) feet from the front property line and 2) an elimination of the five foot side setback, as described in section 35-310.01, to allow two carports to be on the side property lines and 3) a special exception to allow a predominately open and wood privacy fence

to be as tall as six feet in the front yard of the property, as described in Section 35-514 (d), and 4) a variance from the provision that states that corrugated or sheet metal is not permitted as a fencing material, as described in Section 35-514(a)(6)(d).

Shepard Beamon, Planner, presented the background information and staff's recommendation of the variances. He indicated 15 notices were mailed, 0 returned in favor, and 4 returned in opposition.

Arianne Villanueva, World Wide Translators, translated for the applicant.

Edizion Estrada, applicant, stated he built the carport for protection for his family and vehicles, and was unaware of the city setback guidelines.

The following citizens appeared to speak:

David Saucedo, 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-16-158 closed.

MOTION

A motion was made by **Mr. Martinez**. "Regarding Appeal No. A-16-158 a request for a three (3) foot variance from the five (5) foot setback to allow a two (2) foot side setback, subject property description Lot 6, Block 61, NCB 11145, situated at 4422 Commercial Avenue, applicant being Edizon Estrada.

"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 and existing carports will allow five feet of required 10 foot front setback, which provides adequate visual clearance of traffic. The elimination of the side setbacks will not pose increase risk of water runoff or maintenance issues. The fence height and corrugated metal material do not detract from the character of the neighborhood and do not pose any safety or maintenance nuisances to the adjacent properties.
2. "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that the home is situated so that it does not allow for adequate room for parking and meet the required side setback. Further, removal of the carport will leave the applicant's vehicles subject to inclement weather.

3. "The spirit of the ordinance is observed and substantial justice is done" **Granting the requested variance will result in substantial justice as the carports will provide the applicant with adequate protection and coverage for vehicles and will provide a five foot front setback to best meet the Clear Vision requirements. The fencing materials and height provide needed screening and protection, as the applicant has small children.**
4. "Such variance will not authorize the operation of a use other than those specifically permitted in the **"RM-4 AHOD" Residential-Mixed 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 carports will not increase risk of fire spread to adjacent conforming properties as the carport is composed of metal. The fence height and material will not detract from the character of the neighborhood.**
6. "The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, which in this case, **due to the dimensions of the property, meeting the side setback and providing enough space for covered parking is difficult.**" The motion was seconded by Ms. Cruz.

AYES: Martinez, Cruz, Neff, Ojeda, Rodriguez, Klein, Finlay, Kuderer

Nays: Quijano, Britton

THE VARIANCE FAILED

Case Number: A-16-152

Applicant: CST Brands Inc.

Owner: CST Stations Texas, LLC

Location: 15239 Poteet Jourdanton Freeway

Legal Description: Lot 1, Block 16, CB 4296

Zoning: "MI-1 AHOD" Mixed Light Industrial Airport Hazard Overlay District

Request

A request for 1) an 18 foot variance from the maximum 6 foot height to allow a 24 foot tall sign; and 2) a 100 square foot variance from the maximum 32 square foot sign area to allow a sign with 132 square foot and 3) a variance from the requirement that the pole be fully encased, all as described in UDC Section 35-310-15.

Margaret Pahl, Senior Planner, presented the background information and staff's recommendation of the variances. She indicated 4 notices were mailed, 2 returned in favor, and 0 returned in opposition.

Edward Gutierrez, representative, requested the sign variances for visibility of the traveling public to see the sign.

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-16-152 closed.

MOTION

A **motion** was made by **Mr. Klein**. “Regarding Appeal No. A-16-152, a request for 1) an 18 foot variance from the maximum 6 foot height to allow a 24 foot tall sign; and 2) a 100 square foot variance from the maximum 32 square foot sign area to allow a sign with 132 square foot in area, subject property Lot 1, Block 16, CB 4296 situated at 15239 Poteet Jourdanton Freeway, applicant being CST Brands Inc.

“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 reduced sign height is required for rural roads within this part of the City. The design of this street, including speed limit and width contribute to staff’s findings that the requested variance for additional height and square footage is not contrary to the public interest,**
2. The special condition present in this case is that **the volume of traffic on the adjacent street has not reached a level required to change the classification to a freeway. A literal enforcement of the ordinance for height and square footage would result in an unnecessary hardship. Staff recommends that the design enhancement be required as necessary.**
3. The spirit of the ordinance will be respected in **that the UDC includes additional sign allowance for businesses on freeways. Within this zoning district, businesses on freeways are permitted a 35 foot sign height and 200 square feet of sign area, more than the applicant is requesting in the variance for height and size. Therefore, the variances observe the spirit of the ordinance.**
4. “Such variance will not authorize the operation of a use other than those specifically permitted in **the MI-1 Mixed Industrial Airport Hazard Overlay District.**
5. The requested variances for additional sign height and square footage will not alter the essential character of the district, **which as it grows, may warrant a change in street classification.**
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 owner is the first investor to establish a business along this recently widened and improved road, a circumstance that is not merely financial.**” The motion was seconded by **Mr. Martinez.**

AYES: Klein, Martinez, Quijano, Neff, Ojeda, Britton, Cruz, Rodriguez, Finlay, Kuderer
Nays: None

THE VARIANCES ARE GRANTED.

Mr. Martinez recused himself from case # A-16-148 at 1:55pm.

Case Number: A-16-148

Applicant: Margaret Carlyle

Owner: Estate of Nancy Allin

Location: 4342 Putting Green Drive

Legal Description: Lot 28, Block 31, NCB 16738

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

Request

A request for 1) a 20 foot variance from the 20 foot rear setback, as described in Section 35-310.01, to allow an addition to be on the rear property line.

Logan Sparrow, Senior Planner, presented the background information and staff's recommendation of Approval. He indicated 23 notices were mailed, 1 in favor, 0 in opposition, and the Northern Hills Neighborhood Association is in favor.

Margaret Carlyle, applicant, stated her mother purchased the property as is, and has not changed or added to the property.

The following citizens appeared to speak:

Margo Mills, spoke in favor.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-16-148 closed.

MOTION

A motion was made by **Mr. Quijano**. "Regarding Appeal No. A-16-148 a request for a 20 foot variance from the 20 foot rear setback to allow an in-line addition to be on the rear property line, subject property description Lot 28, Block 31, NCB 16738, located at 4342 Putting Green Drive, applicant being Margaret Carlyle.

"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 minimum setbacks to ensure compatible and safe development within the City of San Antonio. The neighborhood is a zero-lot-line development, characterized by development on one side property line with a larger side setback opposite the zero-lot-line for maintenance. Because the addition was in-line with the home staff finds that the side setback reduction is not contrary to the public interest.

Regarding the rear setback variance, although the subject property appears to be the only property with an addition on the rear property line there are several properties that encroach into the required 20 foot rear setback. Because the structure has existed for years without generating any complaints, staff finds that the rear setback variance 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 structure has existed for years without causing harm. Additionally, the zero-lot-line development pattern lessens the impact of the development on the side property line. A literal enforcement of the ordinance would require that the structure be removed. 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 property owner to keep a structure that has existed for years without causing harm to adjacent properties.
4. "Such variance will not authorize the operation of a use other than those specifically permitted in the "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District."
5. "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 side setback is on the side property line just like the main dwelling, a characteristic design within zero-lot-line communities. Secondly, several property owners appear to have screened patios within the rear setback along the golf course. Further, the additions are to the rear of the home and not visible from the public right-of-way (ROW).
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 this property has a zero-lot-line lot layout, making the development along the side lot line common." The motion was seconded by Ms. Cruz.

AYES: Quijano, Cruz, Neff, Ojeda, Britton, Rodriguez, Klein, Finlay, Kuderer

NAYS: None

THE VARIANCE IS GRANTED

Mr. Martinez re-entered the Board of Adjustment Meeting.

Case Number: A-16-157

Applicant: Chad McNamara

Location: 11102 Whispering Wind

Legal Description: Lot 19, Block 1, NCB 14131

Zoning: "R-6 NCD-4" Residential Single-Family Whispering Oaks Neighborhood Conservation District

Request

A request for a variance from the Whispering Oaks Neighborhood Conservation District provision, as described in UDC 35-335, which limits the aggregate driveway width to no more than 20% wider than the garage width.

Margaret Pahl, Senior Planner, presented the background information and staff's recommendation of the variance. She indicated 26 notices were mailed, 6 returned in favor, 1 returned in opposition, and no response from the Whispering Oaks Neighborhood Association.

Chad McNamara, applicant, stated the request for the carport is for additional vehicle parking and safety for his family.

The following citizen appeared to speak:

Dario Hernandez, contractor, spoke in favor.

Mark Resendez, spoke in favor

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-16-157 closed.

A motion was made by **Mr. Rodriguez**. "Regarding Appeal No. A-16-157, a request for variance from the Whispering Oaks Neighborhood Conservation District provision, as described in UDC 35-335, which limits the aggregate driveway width to no more than 20% wider than the garage width, subject property Lot 19, Block 1, NCB 1413, situated at 11102 Whispering Wind, applicant being Chad McNamara.

"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 off-street parking.**
2. "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" **the driveway width can only be 5 feet wider than the garage doors, which would not provide additional parking.**
3. "The spirit of the ordinance will be observed in **the applicant can remove vehicles from parking on the street.**
4. "Such variance will not authorize the operation of a use other than those specifically permitted in the **"R-6 NCD-4" Residential Single-Family Whispering Oaks Neighborhood Conservation 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 additional driveway will provide convenient off-street parking.**
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 limitation was imposed 30 years after the subdivision was established.**" The motion was seconded by Mr. Klein.

AYES: Rodriguez, Klein, Quijano, Neff, Ojeda, Britton, Cruz, Martinez, Finlay, Kuderer
NAYS: None

THE VARIANCE IS GRANTED.

The Board of Adjustment recessed for a 10 minute break at 2:52pm.

Mr. Gragg entered the Board of Adjustment meeting at 3:00pm

Case Number: A-16-155

Applicant: James Day

Location: 1916 Austin Hwy

Legal Description: Lot 19, NCB 12172

Zoning: "C-2 S MC-3 AHOD" Commercial Austin Highway/Harry Wurzbach Metropolitan Corridor Airport Hazard Overlay District with Specific Use Authorization for a bar

Request

1) a variance from the minimum 200 foot distance from residentially zoned property, described in UDC 35-399, to allow a food truck court within 200 feet of residentially zoned property; and variances from the "MC-3" corridor overlay provisions, described in UDC 35-339 to include 2) a 2 foot variance from the maximum 4 foot front fence height; 3) a variance from the required building materials to allow metal buildings; 4) a variance from the requirement that dumpsters be screened with masonry materials to allow wood screening.

Margaret Pahl, Senior Planner, presented the background information and staff's recommendation of the variances. She indicated 10 notices were mailed, 0 returned in favor, and 0 returned in opposition.

James Day, applicant, stated the variance requests are to allow a food truck and beer pavilion business.

Patrick Christensen, representative, re-stated the variance requests are for the applicants planned food truck and beer pavilion business. He also stated the requested fence height will protect families in the pavilion from the high traffic on Austin Highway.

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-16-155 closed.

A motion was made by **Mr. Neff**. "Regarding Appeal No. A-16-155, a request for 1) a variance from the minimum 200 foot distance from residentially zoned property, described in UDC 35-399, to allow a food truck court within 200 feet of residentially zoned property; and variances from the "MC-3" corridor overlay provisions, described in UDC 35-339 to include 2) a 2 foot variance from the maximum 4 foot front fence height; 3) a variance from the required building materials to allow metal buildings; 4) a variance from the requirement that dumpsters be screened with masonry materials to allow wood screening, subject property Lot 19, NCB 12172 situated at 1916 Austin Hwy, applicant being James Day.

"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 proposed fencing, making the food truck court a safe family gathering spot. Since the minimum 200 foot distance requirement was established to protect the quiet enjoyment of outdoor residential spaces, a variance to that spacing will not be contrary to the public interest. The applicant is requesting approval to use metal as a primary building material, with an Air Stream Trailer as the central focal point. The other metal buildings, if the variance is granted, will still have to be compatible with 2015 International Building Code, consistent with the public interest.**
- 2) **Literal enforcement of some of the codes in this case would result in an unnecessary hardship. There is no value gained by the 200 foot separation in that the residentially zoned property is part of the City’s park system. In addition security fencing, especially near public open spaces, has been shown to be necessary. The request to modify the list of approved building materials to allow metal may be considered an unnecessary hardship.**
- 3) **“The intent of the fencing regulations is to provide safety while preserving visibility, which in this case will be satisfied. The spirit of the approved building materials is to encourage compatible re-development of this previously vital commercial corridor. The proposed vintage theme may observe the spirit.**
- 4) **“Such variance will not authorize the operation of a use other than those specifically permitted in the “C-2 S MC-3 AHOD” Commercial Austin Highway/Harry Wurzbach Metropolitan Corridor Airport Hazard Overlay District with Specific Use Authorization for a bar.**
- 5) **The requested variances will not alter the essential character of the district, which is a diverse array of uses established from the 1950’s until today. The Air Stream and metal buildings could contribute to this vintage theme.**
- 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 applicant is the owner of an Air Stream trailer and hopes to create a food truck court with the trailer as its focal point. This is unique and not merely financial.” The motion was seconded by Mr. Martinez.**

AYES: Neff, Martinez, Quijano, Ojeda, Britton, Cruz, Rodriguez, Klein, Gragg, Finlay, Kuderer

NAYS: None

THE VARIANCES ARE GRANTED.

Case Number: A-16-159

Applicant: Rene Villalobos

Location: 2211 Cincinnati Avenue

Legal Description: Lot 28, Block 19, NCB 8334

Zoning: “C-3R NCD-8 AHOD” General Commercial Restrictive Alcoholic Sales Woodlawn Lake Neighborhood Conservation Airport Hazard Overlay District

Request

A request for a 27 foot variance from the 30 foot rear setback, as described in Table 35-310.01, to allow two carports to remain three (3) feet from the rear property line.

Shepard Beamon, Planner, presented background information, and staff's recommendation of the variance. He indicated 25 notices were mailed, 1 returned in favor, 1 returned in opposition, and the Woodlawn Lake Community Association is in opposition.

Rene Villalobos, applicant, stated the carport provides shade for his property, and he plans to install rain gutters.

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-16-159 closed.

A motion was made by **Mr. Rodriguez**. "Regarding Appeal No. A-16-159 A request for a 27 foot variance from the 30 foot rear setback to allow two carports to remain three (3) feet from the rear property line, subject property description Lot 28, Block 19, NCB 8334, situated at 2211 Cincinnati Avenue, applicant being Rene Villalobos.

"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 attached accessory structures will allow three feet from the rear property line to provide adequate room for maintenance and to ensure water runoff does not occur onto the adjacent property.**
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in **that the primary structure is not large enough to support the daily needs of the current business. The enforcement of the ordinance would this require the owner to remove the attached structure and lose needed additional workspace.**
- 3) "The spirit of the ordinance is observed and substantial justice is done" **Granting the requested variance will result in substantial justice as the open structures provide a clearance from the rear abutting property and will provide the owner extra workspace to continue operations.**

4) "Such variance will not authorize the operation of a use other than those specifically permitted in the **"C-3R NCD-8 AHOD" General Commercial Restrictive Alcoholic Sales Woodlawn Lake 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 carports will not increase risk of fire spread to adjacent conforming properties as the carport is composed of metal. Further, the structures are not visible from any street and do not disrupt the character of the district. Lastly, the three foot setback will reduce water runoff onto 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 case, due to the dimensions of the property and the building, as well as the 30 foot rear setback, any additional covered workspace would encroach into the setbacks, which is no fault of the owner.**" The motion was seconded by **Mr. Martinez.**

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

NAYS: Klein

THE VARIANCE IS GRANTED.

Case Number: A-16-161

Applicant: S & K Development Co., Inc.

Location: 6300 Block of Ray Ellison Boulevard

Legal Description: Lots P3, 131, 140, 120, NCB 15228

Zoning: "C-2 AHOD" Commercial Airport Hazard Overlay District, "C-2 CD AHOD"

Commercial Airport Hazard Overlay District with Conditional Use for a Mini-Warehouse-over 2.5 acres, & "C-3 AHOD" General Commercial Airport Hazard Overlay District

Request

A request for a 20 foot variance from the 30 foot rear setback, as described in Section 35-310.01 of the Unified Development Code, to allow commercial buildings to be ten (10) feet from the rear property line.

Shepard Beamon, Planner, presented the background information and staff's recommendation of the variance. He indicated 37 notices were mailed, 0 returned in favor, 0 returned in opposition, and no response from the People Active in Community Effort Association.

Lee Wright, representative, stated the property is an odd shape, and the variance request will help provide more usable space.

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-16-161 closed.

MOTION

A motion was made by **Mr. Finlay**. “Regarding Appeal No. A-16-161 a request for a 20 foot variance from the 30 foot rear setback to allow commercial buildings to be ten (10) feet from the rear property line, subject property description Lots P3, 131, 140, 120, NCB 15228, situated in the 6300 Block of Ray Ellison Boulevard, applicant being S&K Development, Inc.

“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 setbacks that help to ensure that we have uniform, safe development within the City of San Antonio. This area has a mix of commercial and residential uses. The request will provide adequate space from the residential use to the rear of the subject property and will not have adverse impacts on surrounding properties. The owner is proposing to install fencing around the property to further ensure the property rights of adjacent properties are ensured.**
2. **“Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship” in that the special condition in this case is the irregular lot and 50-foot wide gas easement across the front of the property. The easement limits development in the front and the 30 foot rear setback significantly reduces the usable building space which creates an unnecessary hardship.**
3. **“The spirit of the ordinance is observed and substantial justice is done” The spirit of the ordinance is defined as the requested variance will allow for reasonable development for an unusually shaped lot. Further, the applicant has stated the developer of the adjacent multi-family tract is aware of the proposed development of the commercial use of self-storage and has no reservations. Therefore, the requested variance for rear setback observes the spirit of the code.**
4. **“Such variance will not authorize the operation of a use other than those specifically permitted in the “C-2 AHOD” Commercial Airport Hazard Overlay District, “C-2 CD AHOD” Commercial Airport Hazard Overlay District with Conditional Use for a Mini-Warehouse-over 2.5 acres, & “C-3 AHOD” General Commercial Airport Hazard Overlay District.**
5. **“Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located” in that this area is comprised of residential and commercial uses. The property currently has conditional use for a mini-warehouse, a use approved by City Council. The proposed commercial use of self-storage is a compatible use with the adjacent**

multi-family uses. Constructing the facility 10 feet from the rear property line will not disrupt the character of the neighborhood or create any hazards or nuisances to the residents in the adjacent multi-family development, including fire and water runoff.

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, **the unique circumstance on this property is the narrow shape of the lot and the location of the 50-foot gas easement on the front property line. This is not merely financial and was not created by the property owner.**" The motion was seconded by Ms. Cruz

AYES: Finlay, Cruz, Quijano, Neff, Ojeda, Britton, Martinez, Rodriguez, Klein, Gragg, Kuderer

NAYS: None

THE VARIANCE IS GRANTED.

Case Number: A-16-160

Applicant: David Marshall

Location: 214 Lucas Street

Legal Description: Lot 5, Block 11, NCB 1084

Zoning: "MF-33 NCD-6" Multi-Family Mahncke Park Neighborhood Conservation District

Request

A request for a six foot variance from the minimum rear 20 foot setback, as described in both Section 35-310 (o) and the Mahncke Park Neighborhood Conservation District design standards, to allow a rear home addition to be 14 feet from the rear property line.

Shepard Beamon, Planner, presented background, and staff's recommendation of the variance. He indicated 37 notices were mailed, 4 returned in favor, 0 returned in opposition, and no response from Mahncke Park Neighborhood Association.

David Marshall, representative, requested the variance to add more apace to expand the back of the house, during the total rehab of the house.

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-16-160 closed.

A motion was made by **Mr. Quijano**. "Regarding Appeal No. A-16-160, a request for a six foot variance from the 20 foot rear setback requirement and the Mahncke Park Neighborhood

Conservation District design standards to allow a rear home addition to be 14 feet from the rear property line, situated at 214 Lucas Street, applicant being David Marshall.

"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 setback requirements to ensure safe and uniform design consistency within the City of San Antonio. The addition meets the side setback requirement and provides adequate distance from the adjacent rear property. The addition will not increase water runoff or require maintenance with trespass. Staff finds the addition 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 20 foot platted setback limits the amount of expansion that can occur to the existing 800 square foot home.**
- 3) "The spirit of the ordinance is observed and substantial justice is done" in that **the applicant can rehabilitate the home to make it a marketable and accommodating living space. Further, the addition and renovations will enhance the overall character of the district.**
- 4) "Such variance will not authorize the operation of a use other than those specifically permitted in the **"MF-33 NCD-6" Multi-Family Mahncke Park Neighborhood Conservation 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 will keep the existing character and footprint. The addition will not be visible from the front of home and will not detract from the character of neighborhood. Further, the addition will not have any adverse impacts on the adjacent property, including increase in fire risk or allowance of 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, in that **the unique circumstance present in this case is the condition and square footage of the existing home. The small home is in need of modifications and updates. In order to achieve a modern, livable home, an expansion is needed that encroaches six feet into the rear setback. Expanding the home on the sides or front is not as feasible as the rear.**" The motion was seconded by Mr. Rodriguez.

AYES: Quijano, Rodriguez, Neff, Ojeda, Britton, Cruz, Martinez, Klein, Gragg, Finlay, Kuderer

NAYS: None

THE VARIANCE IS GRANTED.

Case Number: A-16-146

Applicant: Michael Villarreal

Owner: Francis Sykes Freddie Rodriguez

Location: 8940 and 8943 Rich Trace

Legal Description: Lots 18 and 17, Blocks 2 and 1, NCB 17643

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

Request

A request for a 20 foot variance from the 20 foot platted front setback, as described in Section 35-516(o), to allow two carports to be on the front property line.

Shepard Beamon, Planner, presented background information and staff's recommendation for the requested variance. He indicated 50 notices were mailed, 3 returned in favor, 0 returned in opposition, and no response from the Tara Neighborhood Association.

Michael Villarreal, representative, stated he is the contractor for the 2 carports on properties across from each other, he stated the carports are the same size, and provide protection for the owners. He admitted to not obtaining permits for the standing carports.

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-16-146 closed.

A motion was made by **Mr. Rodriguez**. "Regarding Appeal No. A-16-146, a request for a 20 foot variance from the 20 foot platted front setback to allow two carports to be on the front property line, subject property Lots 18 and 17, Blocks 2 and 1, NCB 17643, situated at 8940 and 8943 Rich Trace, applicant being Michael Villarreal.

"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 both carports do not encroach into the public right-of-way, or side setbacks, and do not interfere with Clear Vision.

- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that that each primary dwelling is located directly at the 20 foot platted front setback and restricts any development in the front of the home. A literal enforcement of the ordinance will not allow adequate protection of the owners' vehicles from the elements, as they both have converted the garages into livable space.
- 3) "The spirit of the ordinance will be observed in that the carports do not harm any adjacent properties as the carports respect the established five foot side setback and do not interfere with the Clear Vision requirements. Further, carports are common within the neighborhood. Denial of the request would not result in substantial justice for both property owners.
- 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 carports are common within the neighborhood and the both carports respect the side setback, and do not pose the threat of water runoff or maintenance with 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, which in this case are due to the platted setback and the location of the homes, additional parking with covered protection would not be possible on any other portions of the property, which is no fault of the owner. The plight of the owner of the property is not merely financial in nature." The motion was seconded by Ms. Ojeda.

Mr. Rodriguez withdrew the presented motion, and The Board of Adjustment discussed alternative motions. Ms. Ojeda presented a new motion to the Board.

A motion was made by **Ms. Ojeda**. "Regarding Appeal No. A-16-146, a request for a 20 foot variance from the 20 foot platted front setback to allow two carports to be on the front property line, subject property Lots 18 and 17, Blocks 2 and 1, NCB 17643, situated at 8940 and 8943 Rich Trace, applicant being Michael Villarreal.

"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 both carports do not encroach into the public right-of-way, or side setbacks, and do not interfere with Clear Vision.

- 2) **"Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that each primary dwelling is located directly at the 20 foot platted front setback and restricts any development in the front of the home. A literal enforcement of the ordinance will not allow adequate protection of the owners' vehicles from the elements, as they both have converted the garages into livable space.**
- 3) **"The spirit of the ordinance will be observed in that the carports do not harm any adjacent properties as the carports respect the established five foot side setback and do not interfere with the Clear Vision requirements. Further, carports are common within the neighborhood. Denial of the request would not result in substantial justice for both property owners.**
- 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 carports are common within the neighborhood and the both carports respect the side setback, and do not pose the threat of water runoff or maintenance with 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, which in this case are due to the platted setback and the location of the homes, additional parking with covered protection would not be possible on any other portions of the property, which is no fault of the owner. The plight of the owner of the property is not merely financial in nature." The motion was seconded by Mr. Britton.**

Mr. Neff, Mr. Quijano, Mr. Kuderer, and Mr. Martinez each stated they did not have an issue with carports in general, but did not agree with the way the case was presented to the Board as grouped together and paid as one fee.

AYES: Ojeda, Britton, Rodriguez, Gragg

NAYS: Quijano, Neff, Cruz, Martinez, Klein, Finlay, Kuderer

THE VARIANCE FAILED

Case Number: A-16-156

Applicant: Carl Wendt

Location: 270 Wellesley Boulevard

Legal Description: Lot 19, Block 1, NCB 9041

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

Request

A request for an eleven foot variance from the 35 foot platted front setback, as described in Section 35-516(o), to allow a carport to be 24 feet from the front property line.

Logan Sparrow, Senior Planner, presented background information for the requested variance. He indicated 15 notices were mailed, 0 returned in favor, 1 returned in opposition, and no response from the Terrell Heights Neighborhood Association.

Carl Wendt, Applicant, requested the variances to update the look of his home.

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-16-156 closed.

A motion was made by **Mr. Neff**, "Regarding Appeal No. A-16-156, a request for an eleven foot variance from the 35 foot platted front setback to allow a carport to be 24 feet from the front property line, subject property Lot 19, Block 1, NCB 9041, situated at 270 Wellesley Boulevard, applicant being Carl Wendt.

"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 setback requirements to ensure fair and equal access to air and light and to ensure design consistency within the City of San Antonio. The applicant is seeking to replace a carport that has existed for years. Staff was unable to find records of any previous issue with the existing carport. The proposed carport will be located 24 feet from the front property line – nearly 2.5 times what is required by the zoning. Staff finds that the carport 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 35 foot platted setback leaves very little room for a carport. Because the proposed design is similar to that which has existed for years without issue, staff finds that a literal enforcement of the ordinance would result in an unnecessary hardship.**
- 3) "The spirit of the ordinance will be observed **in the applicant can continue to protect their vehicles from any inclement weather. The proposed carport respects the established side setbacks and does not interfere with the Clear Vision requirements.**

- 4) "Such variance will not authorize the operation of a use other than those specifically permitted 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 proposed carport seeks to replace an existing one, staff finds that the impact of such carport is unlikely to detract from the essential character of the community in which it 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, in **that the platted setback makes additional parking with covered protection difficult to achieve on the property, which is not the fault of the owner. The plight of the owner of the property is not merely financial in nature.**" The motion was seconded by Ms. Cruz.

AYES: Neff, Cruz, Quijano, Ojeda, Britton, Martinez, Rodriguez, Klein, Gragg, Finlay, Kuderer

NAYS: None

THE VARIANCE IS GRANTED.

Case Number: A-16-163

Case Number: A-16-163

Applicant: Candelario Garcia

Location: 5986 Midcrown Drive

Legal Description: Lot 124, Block 18, NCB 17733

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

Request

A request for a 25 foot variance from the 30 foot platted front setback, as described in Section 35-516(o), to allow a carport to remain five feet from the front property line.

Logan Sparrow, Senior Planner, presented background information for the requested variance. He indicated 29 notices were mailed, 0 returned in favor, 0 returned in opposition, and no response from the East Village Neighborhood Association.

Candelario Garcia, applicant, stated the contractor told him a permit was not needed, and he stopped building the carport because of a ticket from Code Compliance. The variance request is for vehicle protection and space for his family to park.

The following citizens appeared to speak:

Chris Espinoza, spoke in favor.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-16-163 closed.

A motion was made by **Mr. Martinez**, "Regarding Appeal No. A-16-163, a request for a 25 foot variance from the 30 foot platted front setback to allow a carport to remain five feet from the front property line, subject property Lot 124, Block 8, NCB 17733, situated at 5986 Midcrown Drive, applicant being Candelario Garcia.

"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 setback requirements to ensure fair and equal access to air and light and to ensure design consistency within the City of San Antonio. The carport meets the side setback requirement, and is made of metal. As such, fire and rainwater runoff concerns have been addressed. Additionally, staff found that there is adequate room to maintain the structure without trespassing on adjacent property. Staff finds the carport 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 30 foot platted setback leaves no room for a carport that meets the required setback.
- 3) "The spirit of the ordinance will be observed in that the applicant can continue to protect their vehicles from any inclement weather. The proposed carport respects the established side setbacks.
- 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 several houses along Midcrown Drive have carports located similarly on those properties. Staff finds that the location of this carport does not detract from the essential character of the district in which it 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, in that the platted setback makes additional parking with covered protection difficult to achieve on the property, which is not the fault of the owner. The plight of the owner of the property is not merely financial in nature." The Motion was seconded by **Ms. Cruz**.

**AYES: Martinez, Cruz, Quijano, Neff, Ojeda, Britton, Rodriguez, Klein, Gragg, Finlay,
Kuderer**

NAYS: None

THE VARIANCE IS GRANTED.

[REDACTED]

Directors Report: None

[REDACTED]

There being no further discussion, meeting adjourned at 5:03 pm.

APPROVED BY: Mary Rozen OR _____
Chairman Vice-Chair

DATE: 11-7-16

ATTESTED BY: Alvin Puj DATE: 12/6/16
Executive Secretary