

**BOARD OF ADJUSTMENT  
OFFICIAL MINUTES**

**November 7, 2016**

**Members Present:**

Mary Rogers  
Frank Quijano  
George Britton  
Maria Cruz  
Jesse Zuniga  
Christopher Garcia  
John Kuderer  
Roger Martinez  
Alan Neff  
Seth Teel  
Denise Ojeda  
Richard Acosta (Alternate)

**Staff:**

Catherine Hernandez, Planning Manager  
Logan Sparrow, Senior Planner  
Margaret Pahl, Senior Planner  
Shepard Beamon, Planner  
Ted Murphree, City Attorney

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**Call to Order**

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

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

Arianne Villanueva, World Wide Translators, was present.

**Case# A-16-183 was postponed to November 21, 2016**

**A Motion was made by Commissioner Kuderer to move up cases #A-16-178, A-16-179 and case #A-16-182 to utilize the Spanish Translation Services and was seconded by Commissioner Garcia.**

**All members voted in the affirmative.**

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**Case Number: A-16-178**

Applicant: Jose Tovar  
Owner: José and Silvia Tovar  
Council District: 1  
Location: 315 Nassau Drive  
Legal Description:  
Lot 13, Block 25, NCB 9747

Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District  
Case Manager: Shepard Beamon, Senior Planner

A request for 1) a 25 foot variance from the 25 foot platted front setback, as described in Section 35-516 (a), to allow a carport to be located on the front property line and 2) a five foot variance from the minimum five foot side setback, as described in Section 35-310.01, to allow a carport to be on the side property line.

Shepard Beamon, Senior Planner, presented the background information and staff's recommendation of the variance. He indicated 39 notices were mailed, 2 returned in favor, 0 returned in opposition, and no response from the Dellview Area Neighborhood Association.

Jose and Marisela Tovar, Applicant: gave the recent hail and safety of their children as the reason for the need of the carport (**Spanish Translator Services**)

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-16-178 closed.

## MOTION

A motion was made by **Mr. Martinez**. "Regarding Appeal No. A-16-178, a request for 1) a 25 foot variance from the 25 foot platted front setback and 2) a **two** foot variance from the minimum five foot side setback to allow a carport to be on the side property line, subject property Lot 13, Block 25, NCB 9747, situated at 315 Nassau, applicant being Jose Tovar.

"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. The carport does not interfere with Clear Vision requirements. Further, the carport is constructed of metal and does not pose immediate threats of fire risk.**
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that **a literal enforcement of the ordinance would not allow the owner to keep the carport due to the platted front setback and would not provide protection from inclement weather.**
- 3) "The spirit of the ordinance will be observed in that **granting the requested variance would result in substantial justice because it will allow the property owner to keep a carport constructed of metal and poses little fire risk. Further, justice will be served as the Board previously approved a similar request for a carport 331 Nassau.**

- 4) "Such variance will not authorize the operation of a use on the subject property 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 **carports are common on along Nassau Drive and within the neighborhood. Further, the carport does not hinder views for motorists or the adjacent property.**
- 6) "The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, in that **the carport was constructed to protect the owner's vehicles from harsh weather conditions. These circumstances are not created by the owner and are not merely financial.**" The motion was seconded by Mr. Kuderer.

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

**NAYS: None**

#### **THE VARIANCE IS GRANTED**

**Case Number: A-16-179**

**Applicant: Rigoberto Perez**

**Owner: Rigoberto Perez**

**Council District: 2**

**Location: 5047 Crusade Drive**

**Legal Description: Lot 13, Block 4, NCB 13686**

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

**Case Manager: Logan Sparrow, Principal Planner**

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

Logan Sparrow, Principal Planner, presented the background information and staff's recommendation of the variance. He indicated 28 notices were mailed, 1 returned in favor, 1 returned in opposition, and Camelot 1 Neighborhood Association is in opposition.

Rigoberto Perez, applicant, requested the variance to protect his vehicles (**Spanish Translator Services**)

#### **The following citizens appeared to speak:**

James Nogel, President of the Camelot 1 Neighborhood Association spoke in opposition.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-16-179 closed.

## MOTION

A motion was made by Mr. Neff "Regarding Appeal No. A-16-179, a request for a 20 foot variance from the 30 foot front platted setback to allow a carport to be on the front property line, subject property Lot 13, Block 4, NCB 13686 situated at 5047 Crusade Drive, applicant being Rigoberto 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 carport meets the side setback.
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that the platted front setback leaves no space for a carport addition.
- 3) "The spirit of the ordinance will be observed in that the property owner will benefit from a carport similarly to others in the community.
- 4) "Such variance will not authorize the operation of a use on the subject property 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 there are several carports present in the community.
- 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 front setback leaves no developable space for a carport addition." The motion was seconded by Mr. Garcia.

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

**NAYS:** None

**THE VARIANCE IS GRANTED.**

**Case Number: A-16-182**

Applicant: Carlos Colorado

Owner: Carlos & Claudia Colorado

Council District: 3

Location: 578 Kendalia Avenue

**Legal Description:**

Lot 21, Block 1 NCB 7645

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

Case Manager: Margaret Pahl, AICP, Senior Planner

**Request**

A request for 1) a three foot variance from the maximum three foot solid screen fence height as described in Section 35-514 to allow a maximum six foot fence in the front yard; 2) a five foot variance from the minimum five foot side setback, as described in Table 35-310-1, to allow a carport on the side property line; and 3) a variance from the clear vision requirements to allow a fence to be in the Clear Vision field.

Margaret Pahl, Senior Planner, presented the background information and staff's recommendation of the requested variance. She indicated 29 notices were mailed, 0 in favor, 3 in opposition, and no neighborhood association.

Carlos Coronado, applicant, requested the variance to provide protection and privacy for his family. (Spanish Translator Services)

Edelia Rodriguez, representative, daughter also spoke in favor of the variance.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-16-182 closed.

**MOTION**

**A motion** was made by **Mr. Martinez**. "Regarding Appeal No. A-16-182, a request for a **three** foot variance from the five foot side setback to allow a carport on the side property line subject property description Lot 21, Block 1, NCB 7645, situated at 578 Kendalia, applicant being Carlos Colorado.

"I move that the Board of Adjustment grant the applicant's request for a variance to the subject property as described above, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship."

Specifically, we find that:

- 1) **"Such variance will not be contrary to the public interest" in that the carport will still have to be fire rated, and because the portion of the fence in violation of the Clear Vision area is minimal.**
- 2) **A literal enforcement of the ordinance would result in unnecessary hardship" in that the carport would have to be rebuilt to meet a lesser setback.**
- 3) **"The spirit of the ordinance is observed and substantial justice is done" in that the spirit of the setback requirements, in this case, aims to protect adjacent property**

owners. Adjacent property owners would be protected by fire rating the existing carport structure.

- 4) "Such variance will not authorize the operation of a use other than those uses specifically authorized in the "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District.
- 5) "Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located" in that several homes on this street have carports. The adjacent property will not be injured because the applicant will still be required to fire rate the structure.
- 6) "The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property. The unique circumstance in this case is the limited developable space between the house and the side property line. " The motion was seconded by Mr. Garcia.

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

**NAYS:** None

#### **THE VARIANCE IS GRANTED**

**Case Number: A-16-168**

Applicant: Chris Conger

Owner: Roy E. Leslie

Council District: 2

Location: 106 Pershing Avenue

Legal Description: Lot 17, 18, and 19, Block 1, NCB 6089

Zoning: "C-3 UC-2 RIO-1 AHOD" General Commercial Broadway

Urban Corridor River Improvement Overlay Airport Hazard

Overlay District and "C-3 UC-2 RIO-1" General Commercial

Broadway Urban Corridor River Improvement Overlay District

Case Manager: Shepard Beamon, Senior Planner

#### **Request**

A request for 1) a 24 foot variance from the minimum 30 foot rear setback to allow a building addition 6 feet from the rear property line, as described in Section 35-510.01; 2) a request for the elimination of the Type C 15 foot rear and side bufferyard requirement, as described in Section 35-510.01, to allow no bufferyard; and 3) a 25 foot variance from the 30 foot side setback to allow an accessory structure to be five feet from the side setback, as described in 35- 70(a)(8).

Shepard Beamon, Planner, presented the background information and staff's recommendation of the variances. He indicated 27 notices were mailed, 0 returned in favor, 1 returned in opposition, and no response from the Mahnke Park Neighborhood Association.

Baltazar Serna, representative, asked for approval of the variance and available to answer any questions.

**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-16-168 closed.

**A motion** was made by **Mr. Neff**. “Regarding Appeal No. A-16-168, for a 1) a 24 foot variance from the minimum 30 foot rear setback to allow a building addition 6 feet from the rear property line; and 2) a request for the elimination of the Type C 15 foot rear and side bufferyard requirement to allow no bufferyard; and 3) a 25 foot variance from the 30 foot side setback to allow an accessory structure to be five feet from the side setback, subject property description Lot 17, 18, and 19, Block 1, NCB 6089, situated at 106 Pershing Avenue, applicant being Chris Conger.

“I move that the Board of Adjustment grant the applicant’s request for a variance to the subject property as described above, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.”

Specifically, we find that:

- 1) “Such variance will not be contrary to the public interest” in that **the public interest is represented by requiring bufferyards to beautify our urban streetscapes and to provide landscaped separation from incompatible uses. The public interest is also represented by minimum setback requirements for protection of abutting properties. If the bufferyard and setback were established, the commercial development would lose a majority of the usable space, pushing the development out of compliance. This would not serve the public interest.**
- 2) A literal enforcement of the ordinance would result in unnecessary hardship” in that **the special condition in this case is that new construction must comply with all required setbacks and current development standards. The property currently has usable space that measures less than 50 feet in depth and 100 feet in width. The literal enforcement of the bufferyard and setback would severely limit the developable space on the property.**
- 3) “The spirit of the ordinance is observed and substantial justice is done” in that **the spirit of the setback requirements, in this case, aims to protect adjacent property owners. The current layout of the site does not increase water runoff on the adjacent properties. Also, there is enough room for maintenance without trespass. Lastly, the adjacent residential properties have a required minimum rear setback of 20 feet, per the Mahncke Park NCD requirements, which lessens fire risk.**

**The intent of buffering is to provide landscaped separation between residential and nonresidential use. There are currently several large trees along the perimeter of the outdoor area and provides, at minimum, a five foot buffer area that is sufficient in creating additional landscape screening for the adjacent properties.**

- 4) "Such variance will not authorize the operation of a use other than those uses specifically authorized in the "C-3 UC-2 RIO-1 AHOD" General Commercial Broadway Urban Corridor River Improvement Overlay 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 existing bar has been in place since 1973 and is also six feet from the rear property line. The new addition is in line with the existing bar and services the outside patio area. The new addition does not disrupt the character of the existing building or surrounding neighborhood. Further, the Board previously approved the construction of 10 foot tall commercial fencing along the rear and side property lines to protect the surrounding property owners from unwanted noise and visual nuisances. The accessory structure is built at a distance that will not increase fire risk or produce water runoff on to the adjacent property.**
- 6) "The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property. **The unique circumstance in this case is the limited developable space after the large setback and bufferyard requirements. These are not the fault of the owner and are not merely financial in nature. The elimination of the bufferyard and the reduced setback would allow the business to operate and provide safe, adequate room to service customers.**" The motion was seconded by Ms. Cruz.

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

**NAYS: None**

**THE VARIANCE IS GRANTED.**

**The Board of Adjustment recessed for a 10 minute break at 2:30pm.**

**The Board of Adjustment reconvened at 2:44pm**

**Case Number: A-16-175**

Date: November 7, 2016

Applicant: Consuelo Jasso

Owner: Consuelo Jasso

Council District: 7

Location: 5803 Bennington Drive

Legal Description:

Lot 30, Block 12, NCB 13883

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

Prepared By: Shepard Beamon, Senior Planner

### **Request**

A request for a five foot variance from the five foot minimum side setback, as described in Section 35-370 (b) (1), to allow a detached garage to be on the side property line.

Shepard Beamon, Planner, presented the background information and staff's recommendation of the variance. He indicated 18 notices were mailed, 0 returned in favor, 2 returned in opposition, and no response from the Thunderbird Hills Neighborhood Association.

Margaret Rodriguez: representative asked for approval of the variance and said she would conform to the decision of the board.

### **The following citizens appeared to speak:**

John and Barbara Jasso: 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-16-175 closed.

A motion was made by **Mr. Kuderer**. "Regarding Appeal No. A-16-175, for a five foot variance from the five foot side setback to allow an accessory structure to be on the side property line, subject property description Lot 30, Block 12, NCB 13883, situated at 5803 Bennington Drive, applicant being Consuelo Jasso.

"I move that the Board of Adjustment grant the applicant's request for a variance to the subject property as described above, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship."

Specifically, we find that:

- 1) "Such variance will not be contrary to the public interest" in that **the public interest is defined as the general health, safety, and welfare of the public. In this case the public interest is represented by setbacks to ensure safe separation between structures to prevent the spread of fire, and also to ensure equal access to air and light. As the structure meets the rear setback and is not on the side property line abutting a residence, the requested variance is not contrary to the public interest. The eave overhang that encroaches into the public right-of-way must be removed.**
- 2) A literal enforcement of the ordinance would result in unnecessary hardship" in that **the special condition present in this case is that the owner converted the attached garage into livable space and needed additional space for storage and vehicles. The literal enforcement would cause the owner to lose the added coverage for protection of personal property.**

- 3) "The spirit of the ordinance is observed and substantial justice is done" in that **the spirit of the ordinance intends to provide fair distance between structures in residential zones. Since the accessory structure sits adjacent to a public right-of-way, there is less concern of fire spread or water runoff on adjacent properties. As such, granting the variance will respect the ordinance and that substantial justice will be done.**
- 4) "Such variance will not authorize the operation of a use other than those uses specifically authorized in the **"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District.**
- 5) "Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located" in that **the structure is located on the periphery of the neighborhood, along Zarzamora Creek and does significantly alter the character of the district. The structure does not pose any immediate fire threats or other property related hazards. Further, the structure does obstruct views for motorists and the adjacent property, or interfere with the Clear Vision requirements.**
- 6) "The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property. **The unique circumstance in this case is the angle at which the owner has to maneuver a vehicle to park. Since the attached garage has been converted into livable space, the owner now parks in the rear. Instead of created a new curb cut, they redirected their driveway to the rear. The structure aligns to the new driveway to reduce excessive pivoting of the vehicle.** " The motion was seconded by Mr. Martinez.

**AYES: Kuderer, Martinez, Neff, Cruz, Garcia, Britton, Zuniga, Ojeda, Teel, Rogers**

**NAYS: Quijano**

**THE VARIANCES ARE GRANTED.**

**Case Number: A-16-176**

**Applicant: Michael Perez**

**Owner: MP2 Home Restoration, LLC**

**Council District: 1**

**Location: 355 E. Craig Place**

**Legal Description:**

**Lot 31, NCB 3098**

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

**Case Manager: Margaret Pahl, AICP, Senior Planner**

### **Request**

A request for a nine foot variance from the minimum 20 foot rear setback, described in Table 35-310, to allow a building addition 11 feet from the rear property line.

Margaret Pahl, Planner, presented background information, and staff's recommendation of the variance. He indicated 33 notices were mailed, 0 returned in favor, 1 returned in opposition, and no response from the Tobin Hill Community Neighborhood Association.

Michael Perez, applicant, stated he wanted to comply with all City codes before construction began and wanted to keep the house addition with the style of the Neighborhood.

**No citizens appeared to speak.**

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-16-176 closed.

**A motion** was made by **Mr. Garcia**. "Regarding Appeal No. A-16-176, a request for a nine foot variance from the minimum 20 foot rear setback to allow a building addition 11 feet from the rear property line., subject property Lot 31, NCB 3098, situated at 355 E. Craig Place, 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 represented by the minimum setbacks to provide adequate access to air and light and separation between properties. Reducing the rear setback to 11 feet would not be contrary to the public interest.
- 2) Literal enforcement of the 20 foot rear setback would likely result in an unnecessary hardship. Sixty percent of the residential zones within the city allow a 10 foot rear setback.
- 3) The intent was to require separation between properties to allow outdoor enjoyment. The neighbor directly behind this lot is in the process of constructing a new home with a detached garage. The garage is fairly close to the property line, as allowed by Code.
- 4) "Such variance will not authorize the operation of a use on the subject property other than those specifically permitted in the "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District.
- 5) "The requested variance to reduce the minimum rear setback by nine feet will still allow a reasonable rear setback, with the addition behind the existing home.
- 6) "The unique circumstance is the desire to maintain the historic appearance of the home from the street, locating the additional square footage behind the house and no wider than the existing home." The motion was seconded by **Ms. Cruz**.

**AYES:** Garcia, Cruz, Neff, Martinez, Kuderer, Quijano, Britton, Zuniga, Ojeda, Teel, Rogers  
**NAYS:** None

**THE VARIANCE IS GRANTED.**

**Case Number: A-16-180**

Applicant: Jesse Brown  
 Owner: Jesse Brown  
 Council District: 9  
 Location: 2283 Encino Loop  
 Legal Description:  
 Lot 54, Block 11, NCB 17591  
 Zoning: "R-6 MLOD-1 ERZD" Residential Single-Family Camp  
 Bullis Military Lighting Overlay Edwards Recharge Zone District

Case Manager: Shepard Beamon, Senior Planner

**Request**

A request for 2 foot special exception from the maximum 6 foot maximum rear and side yard fence height, as described in Section 35-314(d), to allow an 8 foot fence in the rear yard.

Shepard Beamon, Planner, presented the background information and staff's recommendation of the variance. He indicated 24 notices were mailed, 4 returned in favor, 0 returned in opposition, and no Neighborhood Association.

Jesse Payton Brown, requested the fence for security and was only replacing the 8ft fence that was there before.

**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-16-180 closed.

**MOTION**

**A motion** was made by **Mr. Teel**. "Regarding Appeal No. A-16-180, a request for 2 foot special exception from the maximum 6 foot maximum rear and side yard fence height to allow an 8 foot fence in the rear yard, subject property description Lot 54, Block 11, NCB 17591, situated at 2283 Encino Loop, applicant being Jesse Payton Brown.

"I move that the Board of Adjustment grant the applicant's request for a special exception to the subject property as described above, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal

enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.”

Specifically, we find that:

- 1) *The special exception will be in harmony with the spirit and purpose of the chapter. The UDC allows eight (8) foot rear fences as a special exception, authorized under certain circumstances in accordance with specific factors as described in this report. The additional fence height is intended to provide safety, security, and privacy of the applicant. Reducing the fence height increases visibility from the street and could result in unnecessary hardship. If granted, this request would be harmony with the spirit and purpose of the ordinance.*
- 2) *The public welfare and convenience will be substantially served. In this case, these criteria are represented by maximum fence heights to protect home owners, and also to provide for a sense of community. An eight foot fence was built on the property prior to the neighborhood being annexed within City limits. The eight foot fence will serve to provide increased privacy and security of the property. This is not contrary to the public interest.*
- 3) *The neighboring property will not be substantially injured by such proposed use. The rear fence will create enhanced security for the subject property and is highly unlikely to injure adjacent properties. Further, the replaced fence had been in place for several years and did not negatively impact the adjacent property owners.*
- 4) *The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought. There is a small percentage of fencing that can be seen from the public right of way and therefore, would not alter the character of the community. Further, according to the applicant, 8 foot fencing has been on the property prior to annexation in 1984. Thus, granting the exception will not be detrimental to the character of the district.*
- 5) *The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district. The purpose of the fencing standards is to protect the health, safety and general welfare of the public, enhance property values, and improve the appearance of the community. The owner wishes to replace the fencing that was in disrepair. Therefore, the requested special exception will not weaken the general purpose of the district.” The motion was seconded by Mr. Rodriguez.*

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

NAYS: None

**THE VARIANCE IS GRANTED**

**Case Number: A-16-181**

Applicant: Robert Jaramillo, Jr.

Owner: Robert Jaramillo, Jr.

Council District: 5

Location: 800 Cincinnati Avenue

Legal Description: Lots 1 & 2, Block 15, NCB 2024

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

Case Manager: Margaret Pahl, AICP, Senior Planner

**Request**

A request for a special exception to allow for the construction of a fence that is as high as eight feet high in the side and rear yard of the property, as described in Section 35-514.

Margaret Pahl, Senior Planner, presented background, and staff's recommendation of the variances. She indicated 27 notices were mailed, 1 returned in favor, 0 returned in opposition, and no Neighborhood Association.

Robert Jaramillo Jr. Applicant, stated the requested variance is to protect his property. He also stated the fence does not obstruct any surrounding views.

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-16-181 closed.

**A motion** was made by **Ms. Ojeda**. "Regarding Appeal No. A-16-181 a request for a special exception to allow an eight foot fence in the rear yard, subject property description Lots 1 & 2, Block 15, NCB 2024, situated at 800 Cincinnati, applicant being Robert Jaramillo.

"I move that the Board of Adjustment grant the applicant's request for a special exception to the subject property as described above, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship."

Specifically, we find that:

- 1) **The UDC allows fences as tall as eight feet as a special exception, authorized under certain circumstances in accordance with specific factors as described in this report. If granted, this request would be harmony with the spirit and purpose of the ordinance.**
- 2) **The public welfare and convenience can be served through the added protection of a rear yard fence, allowing the owner to protect his property on this busy commercial corner.**
- 3) **The rear fence will create enhanced security for the subject property and is highly unlikely to injure adjacent properties.**

- 4) Tall fencing is permitted along collector streets and between conflicting land uses. Thus, granting the exception will not alter the character of the district.
- 5) The purpose of the commercial zoning district is to provide convenient services to the surrounding neighborhood, without impacting the residential uses nearby. Therefore, the requested special exception will not weaken the general purpose of the district.

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

**NAYS:** None

### **THE VARIANCE IS GRANTED**

**Case Number:** A-16-174

**Applicant:** Analia M. Narveaz

**Legal Description:** Lot 5, Block 31, NCB 15492

**Address:** 7927 Campfire Lane

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

**Request:** A request for a 19 foot variance from the 30 foot platted front setback to allow a carport eleven feet from the front property line.

Logan Shepard, Senior Planner, presented background information and staff's recommendation for the requested variance. He indicated 23 notices were mailed, 3 returned in favor, 0 returned in opposition, and no response from the Lackland Terrace Neighborhood Association.

Analia M. Martinez, applicant, stated the requested variance is to protect her vehicles and so her grandchildren can play in safety.

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-16-174 closed.

A motion was made by **Mr. Martinez**. "Regarding Appeal No. A-16-172, a request for a twenty (20) foot variance from the official thirty (30) foot platted front setback to allow ten (10) feet from the front property line, subject property Lot 5, Block 2, NCB 15792, situated at 5850 Castlebrook Drive, applicant being Leonardo Trevino.

"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 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 does not interfere with Clear Vision requirements. Further, the carport does not encroach in to the side setback.
- 2) "Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship" in that a literal enforcement of the ordinance would not allow the owner to remove the carport and would not provide protection from inclement weather.
- 3) "The spirit of the ordinance will be observed in that granting the requested variance would result in substantial justice because it will allow the property owner to keep a carport that provides room for maintenance without trespass.
- 4) "Such variance will not authorize the operation of a use on the subject property 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 meets the side setback and will not increase water runoff on the adjacent property.
- 6) "The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, in that the carport was constructed to protect the owner's vehicles from harsh weather conditions. Further, the applicant has indicated that heavy rainfall has created a condition in such that rainwater has begun to pool in front of the garage and entry way. The carport and porch covering assist in the protection from the pooling and mosquitos by directing the rainwater towards the street, and away from the front of the home." The motion was seconded by Mr. Britton.

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

NAYS: None

#### **THE VARIANCE IS GRANTED**

Ms. Rogers made a motion to approve the October 17, 2016 minutes with all members voting in the affirmative.

Directors Report: None

There being no further discussion, meeting adjourned at 4:45 pm.

APPROVED BY: Mary E Rogus OR \_\_\_\_\_  
Chairman Vice-Chair

DATE: 11-21-16

ATTESTED BY: M. P. [Signature] DATE: 12/2/16  
Executive Secretary