

**BOARD OF ADJUSTMENT  
OFFICIAL MINUTES**

**July 17, 2017**

<b>Members Present:</b>	<b>Staff:</b>
Frank Quijano	Catherine Hernandez, Planning Manager
Alan Neff	Ted Murphree, City Attorney
Denise Ojeda	Margaret Pahl, Senior Planner
George Britton Jr.	Shepard Beamon, Senior Planner
Maria Cruz	Oscar Aguilar, Planner
Richard Acosta	
Mary E. Rogers	
Seth Teel	
Roger Martinez	
Henry Rodriguez	
Jeff Finlay	

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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.

Javier Roman, Interpreter was present

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<b>Case Number:</b>	<b>A-16-088</b>
Applicant:	Housing for Heroes, LLC
Owner:	Housing for Heroes, LLC
Council District:	7
Location:	5322 Medical Drive
Legal Description:	Lots 32 and 33, Block A, NCB 11609
Zoning:	"MF-33 AHOD" Multi-Family Airport Hazard Overlay District
Case Manager:	Margaret Pahl, AICP, Senior Planner

**Request**

A request for an extension of a previously approved variance to allow parking within the 20 foot front setback, as described in Section 35-310.01 Note (6).

Margaret Pahl: Senior Planner She presented the background information and staff's recommendation of a time extension of a year.

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-16-088 closed.

A motion was made by **Mr. Martinez**. "Regarding Appeal No A-16-088, for a variance to allow parking within the 20 foot front setback, subject property description Lots 32 and 33, Block A, NCB 11609, situated at 5322 Medical Drive, applicant being Housing for Heroes.

I move that the Board of Adjustment grant the applicant's request for a one year time extension of a previously approved variance to the subject property, because the original findings represented a property related hardship that still exists and that a change in ownership has delayed construction." **Mr. Britton** seconded the **motion**.

**AYES: Martinez, Britton, Rodriguez, Neff, Finlay, Teel, Cruz, Ojeda, Quijano, Acosta, Rogers**

**NAYS: None**

### **EXTENSION GRANTED**

<b>Case Number:</b>	<b>A-17-127</b>
Applicant:	Nick Harris
Owner:	Rafter Properties, LLC (Richard M. Peacock)
Council District:	2
Location:	722 Seguin Avenue
Legal Description:	Lot 17, Block 4, NCB 1198
Zoning:	"C-2 EP-1" Commercial Facility Parking/Traffic Control
Case Manager:	Shepard Beamon, Senior Planner

### **Request**

A request for a 15 foot variance from the maximum 24 foot sign height, as described in Section 28-239, to allow a 39 foot tall freestanding pole sign on a Commercial Collector.

Shepard Beamon: Senior Planner presented the background information and staff's recommendation of the variance. He indicated **25** notices were mailed, **5** returned in favor, **0** returned in opposition, and no response from the Government Hill Alliance.

Nick Harris: representative stated this particular style is the best possible application and answered all questions and asked for the Boards approval.

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-17-127 closed.

Andrew Perez: Chief Sign Inspector answered all the Boards questions

### **MOTION**

A **motion** was made by **Mr. Neff**, "Regarding Appeal No. A-17-127, a request for a 15 foot variance from the maximum sign height of 24 feet to allow a 39 foot tall freestanding pole sign



along a Commercial Collector, subject property being Lot 17, Block 4, NCB 1198, situated at 722 Seguin Avenue, applicant being Nick Harris.

I move that the Board of Adjustment grant the applicant's request for the 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. *The variance is necessary because strict enforcement of this article prohibits any reasonable opportunity to provide adequate signs on the site, considering the unique features of a site such as its dimensions, landscaping, or topography; or*

2. *A denial of the variance would probably cause a cessation of legitimate, longstanding active commercial use of the property; and*

**As the sign is proposed to be situated further away from the freeway, the additional sign height will better promote the business and increase visibility. Additionally, the sign will be located behind other "C-2" zoned properties, which are currently vacant and have frontage along IH-35. Those properties could be developed to a height of 60 feet, ultimately blocking all view of the sign if built to meet the allowed 24 foot sign height.**

3. *After seeking one or more of the findings set forth in subparagraphs (1) and (2), the Board finds that:*

A. *Granting the variance does not provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated. **Similar to other commercial properties with frontage along IH-35, the subject will also have a freestanding pole sign to promote the business. The request is not out of character of the surrounding commercial properties and IH-35 corridor.***

B. *Granting the variance will not have a substantially adverse impact on neighboring properties. **The ordinance intends to protect the public from over-crowding of signage, while providing businesses the opportunity to advertise. The proposed variance will not have an adverse impact on neighboring properties as many of the properties surrounding the subject property are vacant commercial and industrial. The additional sign height should not interfere with the remaining surrounding residential properties, as they are located behind the subject property.***

C. *Granting the variance will not substantially conflict with the stated purposes of this article. **The requested variance does not conflict with the stated purpose of the chapter in that the sign will not exceed the maximum 40 foot sign height for the subsequent street classification, Arterial Type "A". Since the request falls within range of Commercial Collector and Arterial Type "A" sign heights, the requested height provides reasonable limits on signage to help preserve economic cornerstones. Further, the request will not create traffic hazards by confusing or distracting motorists, or by***

impairing the driver's ability to see pedestrians, obstacles, other vehicles, or to read traffic signs." Mr. Martinez seconded the motion.

**AYES:** Neff, Martinez, Rodriguez, Britton, Cruz, Quijano, Ojeda, Teel, Acosta, Finlay, Rogers

**NAYS:** None

### **VARIANCE IS GRANTED.**

<b>Case Number:</b>	<b>A-17-131</b>
Applicant:	Jeffrey Paez
Owner:	Jeffrey Paez
Council District:	4
Location:	534 Solar Street
Legal Description:	Lot 6, Block 63, NCB 15461
Zoning:	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager:	Oscar Aguilera, Planner

### **Request**

A request for a request for a special exception to allow a 6 foot wrought iron fence in the front yard as described in Section 35-514.

Oscar Aguilera: Planner presented the background information and staff's recommendation of the variance. He indicated **31** notices were mailed, **0** returned in favor, **1** returned in opposition, and no response from the Rainbow Hills Neighborhood Association.

Jeffrey Paez: applicant stated he built the fence for protection purposes and was worried about his daughter's 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-17-131 closed.

### **MOTION**

**A motion** was made by **Ms. Ojeda**. "Regarding Appeal No A-17-131, a request for a special exception to allow a 6 foot wrought iron fence in the front yard, subject property being Lot 6, Block 63, NCB 15461, situated at 534 Solar Street, applicant being Jeffrey Paez.

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

Specifically, we find that:

- A. *The special exception will be in harmony with the spirit and purpose of the chapter.*



The UDC allows six (6) foot front fences as a special exception, authorized under certain circumstances. The additional fence height is intended to provide safety, security, and privacy for the applicant. The owner is requesting less than the fence height allowed with a special exception, which is within harmony with the purpose of the chapter.

*B. The public welfare and convenience will be substantially served. In this case, these criteria are represented by maximum fence heights to protect home owners. Allowing the six (6) foot front fence along the front property line will serve to provide increased security of the property and family. This is not contrary to the public interest.*

*C. The neighboring property will not be substantially injured by such proposed use. The front yard fence will create enhanced security for the subject property and is highly unlikely to injure adjacent properties. 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. Six foot fencing in the front would not significantly alter the overall appearance of the district and will provide the required safety for the property owner and his family.*

*D. 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. The special exception request is to add security for the owner. Therefore, the requested special exception will not weaken the general purpose of the district." The motion was seconded by Mr. Britton.

**AYES:** Ojeda, Britton, Neff, Cruz, Finlay, Rodriguez, Quijano, Teel, Acosta, Rogers  
**NAYS:** Martinez

**VARIANCE IS GRANTED.**

<b>Case Number:</b>	<b>A-17-135</b>
Applicant:	Rick Pichardo
Owner:	Rick Pichardo
Council District:	5
Location:	221 Helena Street
Legal Description:	Lot 22, NCB 2588
Zoning:	"R-6" Residential Single-Family Airport Hazard Overlay District
Case Manager:	Shepard Beamon, Senior Planner

#### **Request**

A request for a special exception to allow a 7.5 foot fence in the rear yard, as described in Section 35-514.

Shepard Beamon: Senior Planner presented the background information and staff's recommendation. He indicated **39** notices were mailed, **1** returned in favor, **0** returned in opposition, and no response from the Lone Star Neighborhood Association.

Rick Pichardo: applicant stated after doing some research he was under the impression he could make the fence taller according to what he read in the code for extra security.

Sandy Ciriani: 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-17-135 closed.

## MOTION

A motion was made by **Mr. Finlay**. "Regarding Appeal No A-17-135, a request for a special exception to allow a 7.5 foot fence in the rear yard, subject property being Lot 22, NCB 2588, situated at 221 Helena Street, applicant being Rick Pichardo.

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

Specifically, we find that:

- A. *The special exception will be in harmony with the spirit and purpose of the chapter. 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. In this case, the applicant is requesting a lesser height. Additional height will also serve to restrict access for children or trespassers who could potentially be harmed in, or around, the pool area. Therefore, if granted, this request would be harmony with the spirit and purpose of the ordinance.*
- B. *The public welfare and convenience will be substantially served. The public welfare and convenience can be served by the added protection of higher rear yard fencing, allowing the owner to protect the subject property and potential risks of others drowning in their pool.*
- C. *The neighboring property will not be substantially injured by such proposed use. The side and rear fencing will create enhanced security for the subject property and is highly unlikely to injure adjacent properties.*
- D. *The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought. Side and rear yard wooden fencing is not out of character in this neighborhood. Thus, granting the exception will not be detrimental to the character of the district.*
- E. *The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district. 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. As the request will satisfy these*



principles, the requested special exception will not weaken the general purpose of the district." The Motion was seconded by Mr. Rodriguez.

**AYES:** Finlay, Rodriguez, Britton, Teel, Cruz, Neff, Ojeda, Acosta, Rogers

**NAYS:** Martinez, Quijano

### THE VARIANCE IS GRANTED

**Case Number:** A-17-128  
**Applicant:** James Lavender  
**Owner:** James Lavender  
**Council District:** 1  
**Location:** 947 W. Agarita  
**Legal Description:** Lot 25 & 26, Block 20, NCB 1792  
**Zoning:** "R-6 NCD-5 AHOD" Residential Single-Family Beacon Hill  
 Neighborhood Conservation Airport Hazard Overlay District  
**Case Manager:** Shepard Beamon, Senior Planner

### Request

A request for a 2 foot variance from the Beacon Hill Neighborhood Conservation District requirement that a fence be no taller than six (6) feet in the rear and side yard to allow an 8 foot fence.

Shepard Beamon: Senior Planner presented the background information and staff's recommendation of the variances. He indicated **21** notices were mailed, **0** returned in favor, **0** returned in opposition and the Beacon Hill Area Neighborhood association is opposed.

James Lavender: applicant described his project in detail and answered all questions and asked for the Boards approval.

Mark Spielman: Beacon Hill Area 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-17-128 closed.

**A motion** was made by **Mr. Teel**. "Regarding Appeal No A-17-128, a request for a two foot variance from the Beacon Hill Neighborhood Conservation District requirement that a fence be no taller than six feet in the rear and side yard to allow an 8 foot fence, subject property being Lot 25 & 26, Block 20, NCB 1792, situated at 947 W. Agarita Avenue, applicant being James Lavender.

I move that the Board of Adjustment grant the applicant's request for the variance of **the Rear Alley Fence only**, 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 variance is not contrary to the public interest. As the property abuts an alley, an 8 foot fence along the alley would protect the property. Additionally, there is adequate spacing between the adjacent home and the fence, and the fence height would not block the homes access to quality light and air.*
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship. The property abuts an alley in the rear which is a special condition related to the property. An 8 foot fence to protect and secure the property from an accessible alley would not result in an unnecessary hardship.*
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done. At the time of the fence's construction, prior to the City Council approval of updated Beacon Hill NCD requirements, the eight foot fencing along the rear alley was permitted without a special exception. This would make the fence non-conforming. Granting a variance would permit the fence by right and allow for repair and maintenance in the future without concern of replacement value.*
4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the "R-6 NCD-5 AHOD" Residential Single-Family Beacon Hill 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.*  
**The eight foot fencing is unlikely to go noticed in its current location along an interior lot line. It has minimal visibility from the right-of-way and does not negatively impact the adjacent properties. The fence is also built at an adequate distance from the adjacent property in the alley.**
6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located. The property is adjacent to the alley which is accessible by anyone. The fence assists in limiting accessibility. This is a unique circumstance not created by the owner."* The motion was seconded by Mr. Martinez.

**AYES:** Teel, Martinez, Acosta, Rodriguez, Britton, Cruz, Ojeda, Quijano, Finlay, Neff, Rogers

**NAYS:** None

### **VARIANCE IS GRANTED**

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Regarding Appeal No A-17-128, a request for a two foot variance from the Beacon Hill Neighborhood Conservation District requirement that a fence be no taller than six feet in the Rear and Side to allow an 8 foot fence, on the East side property line only, subject property being Lot 25 & 26, Block 20, NCB 1792, situated at 947 W. Agarita Avenue, applicant being James Lavender.



I move that the Board of Adjustment grant the applicant's request for the 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. The variance is not contrary to the public interest. As the property abuts an alley, an 8 foot fence along the alley would protect the property. Additionally, there is adequate spacing between the adjacent home and the fence, and the fence height would not block the homes access to quality light and air.*

*2. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship. The property abuts an alley in the rear which is a special condition related to the property. An 8 foot fence to protect and secure the property from an accessible alley would not result in an unnecessary hardship.*

*3. By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done. At the time of the fence's construction, prior to the City Council approval of updated Beacon Hill NCD requirements, the eight foot fencing along the rear alley was permitted without a special exception. This would make the fence non-conforming. Granting a variance would permit the fence by right and allow for repair and maintenance in the future without concern of replacement value.*

*4. The variance will not authorize the operation of a use other than those uses specifically authorized in the "R-6 NCD-5 AHOD" Residential Single-Family Beacon Hill 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. The eight foot fencing is unlikely to go noticed in its current location along an interior lot line. It has minimal visibility from the right-of-way and does not negatively impact the adjacent properties. The fence is also built at an adequate distance from 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, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located."* The motion was seconded by **Mr. Britton**.

**The property is adjacent to the alley which is accessible by anyone. The fence assists in limiting accessibility. This is a unique circumstance not created by the owner.**

**AYES: Neff, Britton, Acosta, Rodriguez, Ojeda, Finlay, Rogers**

**NAYS: Teel, Cruz, Martinez, Quijano**

## VARIANCE FAILED

**Case Number:** A-17-129  
**Applicant:** Pastor Alcantara  
**Owner:** Pastor Alcantara  
**Council District:** 2  
**Location:** 430 F Street  
**Legal Description:** Lot 2, 3, 4, Block 22, NCB 1557  
**Zoning:** "R-4" Residential Single-Family District  
**Case Manager:** Shepard Beamon, Senior Planner

### Request

A request for 1) a special exception to allow 6 foot fencing in the front yard and 2) a special exception to allow 8 foot fencing in the rear yard and 3) a variance to allow sheet metal as fencing material, all described in Section 35-514.

Shepard Beamon: Senior Planner presented the background information and staff's recommendation. He indicated 21 notices were mailed, 0 returned in favor, 0 returned in opposition, and no neighborhood association.

Pastor Alcantara: applicant, requested interpretation services, explained he needs the fence for protection for his family and from the illegal dumpers. Also he has a dog that could jump the fence easily. The applicant submitted pictures of the pictures of illegal dumping and police reports.

Alice Sanders: spoke in favor

Sarah Vargas: 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-17-129 closed.

**A motion** was made by **Mr. Neff**. "Regarding Appeal No A-17-129, a request for 1) a special exception to allow 6 foot fencing in the front yard and 2) a special exception to allow 8 foot fencing in the rear yard, subject property being Lot 2, 3, 4, Block 22, NCB 1557, situated at 430 F Street, applicant being Pastor Alcantara.

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

Specifically, we find that:

- A. *The special exception will be in harmony with the spirit and purpose of the chapter. As the property is currently abutting a large vacant lot along the rear property line, the*



additional fence height in the rear yard could assist with preventing any unwanted trespassing or criminal activity.

- B. *The public welfare and convenience will be substantially served. The public welfare and convenience can be served by the added protection of higher rear and front yard fencing, allowing the owner to protect the subject property and family.*
- C. *The neighboring property will not be substantially injured by such proposed use. The eight foot fencing in the rear is unlikely to injure the adjacent property as the fencing should not obstruct the adjacent property owner's access to quality light and air. Further, the six foot fencing is unlikely to harm the adjacent property owner as it is not directly adjacent to the neighboring driveway and should not interfere with clear vision.*
- D. *The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought. The eight foot fencing in the rear is less noticeable and is unlikely to significantly alter the essential character of the district.*
- E. *The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district. The requested fencing height of eight feet in the rear yard will safeguard property values and protect private investment. The applicant has stated that their family feels threatened from neighboring properties and the fence provides an added sense of security."* The Motion was seconded by Mr. Rodriguez.

AYES: Neff, Teel, Ojeda, Martinez, Rodriguez, Britton, Finlay, Cruz, Quijano, Acosta, Rogers

NAYS: None

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

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A motion was made by Mr. Neff. Regarding Appeal No A-17-129, a request for a variance to allow metal as a fencing material in the rear yard, subject property being Lot 2, 3, 4, Block 22, NCB 1557, situated at 430 F Street, applicant being Pastor Alcantara.

I move that the Board of Adjustment grant the applicant's request for the 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. *The variance is not contrary to the public interest. The public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by fence restrictions in order to provide orderly development and encourage a sense of community. The fence does not present a public safety issue and does not present a negative impact to the welfare of the public. Therefore, the variance request would not be contrary to the public interest.*

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship. As there is a large vacant lot in the rear, there are increased risks of criminal activity. The requested fencing material prevents any unwanted trespassing. Therefore, allowing the applicant to be able to fence and protect his property.*
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done. As the material will not disrupt the appearance of the neighborhood and is located in the rear yard only, the spirit of the ordinance will be observed.*
4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located. The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the "R-4" Residential Single-Family 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. There are other surrounding properties that have metal as a fencing material and the request is not out of character of the district.*
6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located. The material adds the additional screening needed by the family, as they have stated there are safety concerns from the adjacent property."* The Motion was seconded by Mr. Teel.

**AYES:** Neff, Teel, Ojeda, Rodriguez, Britton, Finlay, Cruz, Acosta, Rogers

**NAYS:** Martinez, Quijano

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

**The Board of Adjustment convened for a 15 minute break at 3:35pm and reconvened at 3:50pm.**

<b>Case Number:</b>	<b>A-17-122</b>
<b>Applicant:</b>	John C. Salinas
<b>Owner:</b>	John C. Salinas
<b>Council District:</b>	10
<b>Location:</b>	12007 Las Nubes
<b>Legal Description:</b>	Lot 40, Block 27, NCB 14248
<b>Zoning:</b>	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District



Case Manager: Oscar Aguilera, Planner

### **Request**

A request for 1) a 13 foot variance from the 30 foot platted front setback and 2) a 19 foot variance from the 30 foot platted side setback to allow a carport.

Oscar Aguilera: Planner presented the background information and staff's recommendation. He indicated **26** notices were mailed, **2** returned in favor, **3** returned in opposition, and the El Dorado Neighborhood Association is opposed.

John C. Salinas: applicant stated he wants to comply with all rules and regulations for the carport and asked for the Boards approval.

Reinette King: representative of the El Dorado Neighborhood association after hearing testimony and asking questions is now in favor of the applicant's request.

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-17-122 closed.

**A motion** was made by **Mr. Rodriguez**. "Regarding Appeal No., A-17-122, a request 1) a 13 foot variance from the 30 foot platted front setback and 2) a 19 foot variance from the 30 foot platted side setback to allow a carport, subject property being Lot 40, Block 27, NCB 14248, situated at 12007 Las Nubes, applicant being John C. Salinas.

I move that the Board of Adjustment grant the applicant's request for the variance to the subject property 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 variance is not contrary to the public interest. The public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by setback limitations to protect property owners and create a cohesive streetscape. The City's zoning front setback of 10 feet and side setback of 10 feet, for a reverse corner lot, provides this streetscape protection in other areas. Since the carport will meet the City's minimum setbacks, the front setback of 13 feet and the side setback of 19 feet from the property line would not be contrary to the public interest.*
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship. Literal enforcement of the platted setbacks would not allow any carport. The requested setbacks meet the code and do not result in the unnecessary hardship.*
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done. The spirit of the ordinance represents the intent of the*

requirement. The City zoning front setback is 10 feet, the side setback zoning requirement for a reverse corner lot is 10 feet. The zoning setbacks provide an open street and prevent overcrowding of front yards. Therefore, the requested variance for the proposed carport meets this spirit.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located. The requested 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. There are other carports prevalent in the area. A 13 foot variance from the 30 foot platted setback for a 17 foot front setback and 19 foot variance from the 30 foot platted setback for a 11 side setback will be more strict than the City's established 10 feet standard for front setback and 5 feet standard for side setbacks.*
6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located. The City of San Antonio has an established 10 foot front setback and a 5 foot side setback, applied in all residential districts, and the proposed carport meets these established setbacks. The 30 foot setbacks on both the front and side are unique circumstances not created by the current owner."* The motion was seconded by Ms. Cruz.

**AYES:** Rodriguez, Cruz, Finlay, Martinez, Teel, Britton, Quijano, Acosta, Neff, Ojeda, Rogers

**NAYS:** None

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

<b>Case Number:</b>	<b>A-17-132</b>
<b>Applicant:</b>	Bob J. Lemons
<b>Owner:</b>	Bob J. Lemons
<b>Council District:</b>	9
<b>Location:</b>	1118 Mt. Capote Street
<b>Legal Description:</b>	Lot 35, Block 7, NCB 13357
<b>Zoning:</b>	"R-5 AHOD" Residential Single-Family District
<b>Case Manager:</b>	Oscar Aguilera, Planner

#### **Request**

A request for a 6 foot variance from the 30 foot platted building setback to allow a garage/carport 24 feet from the front property line.



Oscar Aguilera: Planner presented the background information and staff's recommendation. He indicated **26** notices were mailed, 4 returned in favor, 2 returned in opposition, and no response from the Greater Harmony Hills Neighborhood Association.

Bob J. Lemons: applicant answered all questions from the Board and discussed his plans regarding the tree and asked for the Boards approval.

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-17-132 closed.

**A motion** was made by **Mr. Quijano**. Regarding Appeal No, A-17-132, a request for a 6 foot variance from the 30 foot platted building setback to allow a garage/carport 24 feet from the front property line, subject property being Lot 35, Block 7, NCB 13357, situated at 1118 Mt. Capote Street, applicant being Bob J. Lemons.

I move that the Board of Adjustment grant the applicant's request for the variance to the subject property 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 variance is not contrary to the public interest. The public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by setback limitations to protect property owners and create a cohesive streetscape. The City's zoning setback of 10 feet provides this streetscape protection in other areas. Since the carport will meet the side setback and the front setback will be 24 foot from the property line, the variance request from the recorded plat would not be contrary to the public interest.*
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship. Literal enforcement of the platted setbacks would not allow any carport. The requested setbacks meet the code and do not result in the unnecessary hardship.*
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done. The spirit of the ordinance represents the intent of the requirement. The City zoning setback is 10 feet and is intended to prevent overcrowding of front yards. AS the requested carport will more than exceed the minimum front setback, the request meets this spirit.*
4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located. The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the "R-5" Residential Single-Family 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. The proposed garage/carport will meet the side setback of five feet. There are other carports prevalent in the area. A six foot variance from the 30 foot platted setback for a 24 foot front setback will be stricter than the City's established 10 feet standard for front setback and the applicant meets the clear vision requirements. Therefore, the reduced setback is unlikely to injure the adjacent property owners.*
6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located. The City of San Antonio has an established 10 foot front setback, applied in all residential districts, and the proposed carport meets this established setback. The unique circumstance is the platted setback that heavily restricts development in the front yard." The motion was seconded by Mr. Martinez.*

**AYES:** Quijano, Martinez, Cruz, Finlay, Teel, Rodriguez, Acosta, Britton, Neff, Ojeda, Rogers  
**NAYS:** None

#### **VARIANCE IS GRANTED**

<b>Case Number:</b>	<b>A-17-134</b>
Applicant:	Enrique & Diana de la Cruz
Owner:	Enrique & Diana de la Cruz
Council District:	6
Location:	7708 Pipers View
Legal Description:	Lot 3, Block 8, NCB 18058
Zoning:	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager:	Oscar Aguilera, Planner

#### **Request**

A request for a 22 foot variance from the 25 foot platted building setback to allow a carport 3 feet from the front property line.

Oscar Aguilera: Planner presented the background information and staff's recommendation. He indicated 31 notices were mailed, 0 returned in favor, 0 returned in opposition, and no response from the Piper Meadows Neighborhood Association.

Enrique & Diana De La Cruz: stated the many reasons for the carport and referred to his contractor to answer the Boards questions.

Jonathan Bueno: contractor gave his opinion and answered the Boards questions.



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-17-134 closed.

A motion was made by **Mr. Martinez**. "Regarding Appeal No, A-17-134, a request for a 22 foot variance from the 25 foot platted building setback to allow a carport 3 feet from the front property line, subject property being Lot 3, Block 8, NCB 18058, situated at 7708 Pipers View, applicant being Enrique & Diana de la Cruz.

I move that the Board of Adjustment grant the applicant's request for the variance to the subject property 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 variance is not contrary to the public interest. The public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by setback limitations to protect property owners and create a cohesive streetscape. Since there are similar carports within the subdivision, the proposed carport would not be contrary to the public interest.*
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship. Literal enforcement of the platted setbacks would not allow any carport. The requested setbacks meet the code and do not result in the unnecessary hardship.*
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done. The spirit of the ordinance represents the intent of the requirement. Since there are similar carports within the subdivision, the proposed carport would not be contrary to the public interest.*
4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located. The requested 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. There are other carports prevalent in the area. The structure will not impose any immediate threat of water runoff or fire spread on 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, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located. The platted front setback is a condition not created by the owner that makes it extremely difficult to construct any addition to the front of the home. Additionally, there is no way to*

provide coverage for a vehicle in the rear yard.” The Motion was seconded by Mr. Teel.

Mr. Neff made an amendment to move the columns 8 feet from the front property line and a 3 foot overhang. Ms. Ojeda seconded the motion. A voice vote was taken and passed unanimously.

**AYES: Martinez, Teel, Neff, Cruz, Finlay, Rodriguez, Acosta, Britton, Ojeda, Rogers**

**NAYS: Quijano**

## **VARIANCE IS GRANTED**

<b>Case Number:</b>	<b>A-17-130</b>
Applicant:	Hortencia Morales
Owner:	Hortencia Morales
Council District:	9
Location:	10522 Burr Oak Drive
Legal Description:	Lot 18, Block 12, NCB 13225
Zoning:	“R-6 ERZD” Residential Single-Family Edwards Aquifer Recharge District
Case Manager:	Margaret Pahl, AICP, Senior Planner

### **Request**

A request for a 19 foot variance from the 30 foot platted front setback, as described in UDC 35-516(o), to allow a carport 11 feet from the front property line.

Margaret Pahl: Senior Planner presented the background information and staff’s recommendation. She indicated 13 notices were mailed, 0 returned in favor, 0 returned in opposition, and no neighborhood association.

Hortencia Morales: applicant gave her testimony and detailed her medical conditions, answered all questions from the Board and asked for the Boards approval.

Andrea Zarate: spoke in favor.

Andrea Adams: spoke in favor.

Dan Stevens: 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-17-130 closed.

**Mr. Martinez** made a **Motion**. “Regarding Appeal No A-17-130, a request for a 19 foot variance from the 30 foot platted building setback to allow a carport 11 feet from the front property line, subject property being Lot 18, Block 12, NCB 13225, situated at 10522 Burr Oak Drive, applicant being Hortencia Morales.



I move that the Board of Adjustment grant the applicant's request for the variance to the subject property 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 variance is not contrary to the public interest. The public interest is defined as the general health, safety, and welfare of the public. If the variance is granted, the carport will still be 21 feet from the curb, making the request not contrary to public interest.*
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship. The special condition which creates an unnecessary hardship is the 30 foot platted setback, which is 20 feet deeper than the adopted zoning setback, an unnecessary hardship.*
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done. The spirit of the ordinance represents the intent of the requirement. The carport does not conflict with the intent of the front setback as it will maintain an 11 foot front setback from the property line, contributing to the open street view.*
4. *The variance will not authorize the operation of a use other than those specifically permitted in the "R-6 ERZD" Residential Single-Family Edwards Aquifer Recharge 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. The applicant is requesting a variance to allow the completion of a carport, which will be finished to match the architecture of the principal building.*
6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located. The unique circumstance is that the property is subject to a building setback line recorded in 1959, at a time when large front yards were desirable and the weather was not prone to hail storms." Mr. Neff seconded the motion.*

**AYES:** Martinez, Neff, Teel, Cruz, Finlay, Rodriguez, Acosta, Britton, Ojeda, Quijano  
Rogers

**NAYS:** None

**VARIANCE IS GRANTED**



**Case Number:** A-17-133  
**Applicant:** Jacob Segal  
**Owner:** Jacob and Melissa Segal  
**Council District:** 9  
**Location:** 11114 Janet Lee Drive  
**Legal Description:** Lot 27, Block 6, NCB 13219  
**Zoning:** "R-6 ERZD" Residential Single-Family Edwards Aquifer Recharge District  
**Case Manager:** Margaret Pahl, AICP, Senior Planner

### Request

A request for a 15 foot variance from the 30 foot platted front setback, as described in UDC 35-516(o), to allow a carport 15 feet from the front property line.

Margaret Pahl: Senior Planner presented the background information and staff's recommendation. She indicated 21 notices were mailed, 1 returned in favor, 0 returned in opposition, and no neighborhood association.

Jacob Segal: applicant described how he lost all his vehicles to the 2016 hail storm. He decided to follow all the rules to install a carport and apply for a 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-17-133 closed.

**Mr. Finlay** Mad a **motion**. "Regarding Appeal No A-17-133, a request for a 15 foot variance from the 30 foot platted building setback to allow a carport 15 feet from the front property line, subject property being Lot 27, Block 6, NCB 13219, situated at 11114 Janet Lee Drive, applicant being Jacob Segal.

I move that the Board of Adjustment grant the applicant's request for the variance to the subject property 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 variance is not contrary to the public interest. The public interest is defined as the general health, safety, and welfare of the public. If the variance is granted, the carport will still be 25 feet from the curb, making the request not contrary to public interest.*
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship. The special condition which creates an unnecessary hardship is the 30 foot platted setback, which is 20 feet deeper than the adopted zoning setback, an unnecessary hardship.*
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done. The spirit of the ordinance represents the intent of the requirement. The carport does not conflict with the intent of the front setback as it*



will maintain a 15 foot front setback from the property line, contributing to the open street view.

4. *The variance will not authorize the operation of a use other than those specifically permitted in the "R-6 ERZD" Residential Single-Family Edwards Aquifer Recharge 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. The applicant is requesting a variance to allow the construction of a carport over the existing driveway. A field visit shows very few other carports within the neighborhood, although the adjacent property owner has a carport, built in 2002 with permits.*
6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located. The unique circumstance is that the property is subject to a building setback line recorded in 1959, at a time when large front yards were desirable and the weather was not prone to hail storms." The Motion was seconded by Mr. Martinez.*

**AYES:** Finlay, Martinez, Teel, Neff, Cruz, Rodriguez, Acosta, Britton, Ojeda, Quijano Rogers

**NAYS:** None

#### **VARIANCE IS GRANTED**

The June 19, 2017 Board of Adjustment Minutes were approved.

Director's Report: none

There being no further discussion the meeting adjourned at 5:30pm.

APPROVED BY: Mary E. Rosen DATE: 8-7-17 Chairman

OR \_\_\_\_\_ DATE: \_\_\_\_\_ Vice-Chair

ATTESTED BY: Melvin P. [Signature] DATE: 8-7-17 Executive Secretary