

**BOARD OF ADJUSTMENT  
OFFICIAL MINUTES  
March 19, 2018**

Members Present:	Dr. Zottarelli Alan Neff Jeff Finlay George Britton Jr John Kuderer Seth Teel Mary Rogers Donald Oroian John Kuderer Roger Martinez	Staff: Catherine Hernandez, Planning Manager Joseph Harney, City Attorney Logan Sparrow, Principal Planner Debora Gonzalez, Senior Planner Dominic Silva, 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.

Herman Perez, World Wide Languages-Interpreter, present.

---

<b>Case Number:</b>	<b>A-18-053</b>
Applicant:	Jennifer Wolf
Owner:	Jennifer Wolf
Council District:	4
Location:	Generally located southwest of the intersection of Loop 1604 and Potranco Road. Known as Parcel 418973
Legal Description:	Lot P-23, P-9, P-9B, P-9C, P-21, P-22, P-23 & CB 4361 P-9, P-9B, & P-20G ABS, NCB 34361
Zoning:	"C-3 AHOD" General Commercial Airport Hazard Overlay District
Case Manager:	Debora Gonzalez, Senior Planner

**Request**

A request for 1) a 15 foot variance from the 45 foot maximum sign height for a secondary sign to allow a sign to be 60 feet tall and 2) 162.5 square foot variance from the 487.5 square foot maximum area for a secondary sign to allow the same sign to be 650 square feet and 3) a 19'11" variance from the 20 foot maximum sign height to allow a sign to be 39 feet and eleven inches tall square foot and 4) 124.9 square foot variance from the 125 square foot maximum to allow a sign to be 249.9 square feet in area, all as described in Section 28-45, and 5) an 80 foot variance from the 150 foot distance requirement, as described in Section 28-47 (c)(1), between two proposed signs along Loop 1604 Frontage Road to allow two signs to be 70 feet apart.

Debora Silva, Senior Planner, presented the background information and staff's recommendation of the variance. She indicated 27 notices were mailed, 0 returned in favor, and 0 returned in opposition with no neighborhood association.

Andrew Perez, Chief Sign Inspector explained the City's Master Sign Plan and gave other examples of other options.

Jennifer Wolf, applicant stated her application was only for Lot P-23 only. She asked that only that parcel be considered and asked for the Boards approval. After further discussion the Board agreed to only consider Lot P-23 and in no way enter into a Sign Master Plan.

**No Citizen 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-18-053 closed.

**MOTION**

A motion was made by **Mr. Martinez**. "Regarding Appeal No A-18-053, a request for 1) a 5 foot variance from the 45 foot maximum sign height for a secondary sign to allow a sign to be 50 feet tall and 2) 62.5 square foot variance from the 487.5 square foot maximum area for a secondary sign to allow the same sign to be 550 square feet and 3) a 12' variance from the 20 foot maximum sign height to allow a sign to be 32 square foot and 4) 124.9 square foot variance from the 125 square foot maximum to allow a sign to be 249.9 square feet in area and 5) an 80 foot variance from the 150 foot distance requirement between two proposed signs along Loop 1604 Frontage Road to allow two signs to be 70 feet apart applicant being Jennifer Wolf.

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*

**The variances are not contrary to the public interest because the proposed quantity of signage will limit sign clutter and promote neighborhood aesthetics. The applicant is seeking the multiple sign variances to develop a vacant lot for retail purposes. The configuration of lots would otherwise permit a total of 29 separate signs. Rather, the**



**applicant is seeking variances from the spacing, height, and square footage limitations to allow for four large multitenant signs. Should the applicant be made to design the signs to the required sign height and square footage limitations, the retail business would have clustered visibility.**

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.*

**The requests are not out of character with the surrounding vacant and commercial properties and the business will have adequate visibility.**

*B. Granting the variance will not have a substantially adverse impact on neighboring properties.*

**The proposed variances will not have an adverse impact on neighboring properties as many of the properties surrounding the subject property or other commercial properties have similar signage.**

*C. Granting the variance will not substantially conflict with the stated purposes of this article.*

**The requested variances do not conflict with the stated purpose of the chapter. The requested spacing, height, and square footage provide reasonable limits on signage to help eliminate sign clutter. Further, the requests will not create traffic hazards by confusing or distracting motorists, or by impairing the driver's ability to see pedestrians, obstacles, or other vehicles, or to read traffic signs.” The motion was seconded by Mr. Neff.**

**AYES: Martinez, Neff, Teel, Rodriguez, Finlay, Britton, Dr. Zottarelli, Rogers, Oroian, Kuderer**

**NAYS: None**

**THE VARIANCE IS GRANTED.**

<b>Case Number:</b>	<b>A-18-055</b>
Applicant:	Cynthia Neal
Owner:	Cynthia Neal
Council District:	1
Location:	103 Gazel Drive
Legal Description:	Lot 15, Block 5, NCB 10186
Zoning:	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District
Case Manager:	Debora Gonzalez, Senior Planner

### **Request**

A request for a special exception, as described in Section 35-399.01, to allow a renewal of a one-operator beauty/barber shop within a home.

Debora Gonzalez, Senior Planner presented the background information and staff's recommendation of the variance. She indicated 25 notices were mailed, 1 returned in favor, and 0 returned in opposition. No response from the Greater Dellview Area Community Plan Neighborhood association.

Cynthia Neal, applicant stated she is reapplying for the Special Exception and also submitted letters from her neighbors in support and asked for the Board's approval.

### **The Following 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-18-055 closed.

### **MOTION**

A motion was made by Mr. **Rodriguez**, "Regarding Appeal No. A-18-055, a request for a special exception, as described in Section 35-399.01, to allow a renewal of a one-operator beauty/barber shop within a home, situated at 103 Gazel Drive, applicant being Cynthia Neal.

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 spirit and purpose of the chapter is to ensure that the operation of a one-operator beauty/barber shop does not negatively impact the character of the community or the quality of life of neighbors. The applicant has fulfilled all requirements for a one-operator shop as established in the Unified Development Code. The Board finds that the special exception will be in harmony with the spirit and purpose of the chapter.**

B. *The public welfare and convenience will be substantially served.*

**The public welfare and convenience will be served as it will provide a valuable service to the residents of the neighborhood. The proposed hours of operation will be limited to Mondays, 9:30am until 3:00pm; Wednesdays, 9:00am until 6:00pm; Thursdays, 9:00am until 11:00am; Fridays, 8:00am until 3:00pm; and Saturdays 8:00am until 2:00pm.**



C. *The neighboring property will not be substantially injured by such proposed use.*

**The requested special exception is not likely to negatively impact adjacent property owners because the home is in character with those around it. The beauty shop will occupy only a small part of the structure, and the fact that a beauty shop is being operated from the home will likely be indiscernible to passersby.**

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 requested special exception is not likely to alter the essential character of the district as the property is still used, primarily, as residence.**

E. *The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district.*

**The primary use of the dwelling remains a residence. The one-operator barber/beauty shop will have restricted hours, which are established by the Board of Adjustment. The applicant has met all other requirements established by the Unified Development Code.” The motion was seconded by Mr. Martinez**

**AYES: Rodriguez, Martinez, Neff, Teel, Finlay, Britton, Dr. Zottarelli, Rogers, Oroian, Kuderer**

**NAYS: None**

## **THE SPECIAL EXCEPTION IS GRANTED**

**Mr. Oroian recused himself from cases A-18-051 and A-18-052 at 1:51pm.**

<b>Case Number:</b>	<b>A-18-051</b>
Applicant:	Charles Pope
Owner:	Charles Pope
Council District:	4
Location:	2510 SW Military Drive
Legal Description:	Lot 22, NCB 9503
Zoning:	“I-2 AHOD” Heavy Industrial Airport Hazard Overlay District
Case Manager:	Debora Gonzalez, Senior Planner

### **Request**

A request for an eight foot variance from the 15 foot Type B landscape bufferyard requirement, as described in Section 35-510, to allow a bufferyard to be as narrow as seven feet.

Debora Gonzalez, Senior Planner, presented background, and staff’s recommendation of the variance requests. She indicated 6 notices were mailed, 0 returned in favor, and 0 returned in opposition and no neighborhood association.

Charles Pope, applicant gave a short briefing on his project, answered all his questions and asked for the Boards approval.

**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-18-051 closed.

**MOTION**

A motion was made by **Dr. Zottarelli**. “Regarding Appeal No A-18-051, a request for an eight foot variance from the 15 foot Type B landscape bufferyard requirement to allow a bufferyard to be as narrow as seven feet, situated at 2510 SW Military Drive, applicant being Charles Pope.

I move that the Board of Adjustment grant the applicant’s request for the 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. *The variance is not contrary to the public interest.*

**The public interest is represented by the quantity of plantings required in a bufferyard to separate incompatible uses. The seven foot bufferyard is not contrary to public interest as it does not negatively impact any surrounding properties or the general public. The owner is increasing the 15 foot requirement to 17 feet along SW Military drive. As the owner is not asking for the complete elimination of the bufferyard, the request is not contrary to the public interest.**

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*

**Literal enforcement would not allow the re-development of the new building as proposed. Approval of the requested variance would provide a safe, enclosed parking area towards the interior of the property.**

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

**The spirit of the ordinance will be observed as the proposed bufferyard will sufficiently screen the street and traffic from any visual clutter and will improve the existing streetscape.**

4. *The variance will not authorize the operation of a use other than those uses specifically authorized*

**The requested variances will not authorize the operation of a use on the subject property other than those specifically permitted in the “I-2 AHOD” Heavy Industrial 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 request should not injure the rights of the neighboring properties as the introduction of a seven foot buffer would only enhance the overall appearance of the site, streetscape, and 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, 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 existing building already has a few large mature trees on site, and accommodating the new building within the existing conditions of the 15 foot bufferyard requirement on Zarzamora Street restricts the redevelopment of a new building and circulation for the business.” Mr. Rodriguez seconded the motion.**

**AYES: Dr. Zottarelli, Rodriguez, Martinez, Neff, Teel, Finlay, Britton, Rogers, Kuderer**

**NAYS: None**

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

<b>Case Number:</b>	<b>A-18-052</b>
Applicant:	Charles Pope
Owner:	Charles Pope
Council District:	4
Location:	2500 Block of Southwest Loop 410
Legal Description:	Lot 7, Block 16, NCB 14477
Zoning:	“C-2S AHOD” Commercial Airport Hazard Overlay District with Specific Use Authorization for a Carwash
Case Manager:	Debora Gonzalez, Senior Planner

#### **Request**

A request for a seven foot variance from the 15 foot Type B landscape bufferyard requirement, as described in Section 35-510, to allow a bufferyard to be as narrow as eight feet in width.

Debora Gonzalez, Senior Planner, presented the background information, and staff’s recommendations. She indicated 6 notices were mailed, 0 returned in favor, 0 returned in opposition and no neighborhood association.

Charles Pope, applicant gave a short presentation and stated they would be planting vegetation that would follow the code and improve the property and asked for the Boards approval.

**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-18-052 closed.

### **MOTION**

**Mr. Teel** made a motion. “Regarding Appeal No A-18-052, a request for a seven foot variance from the 15 foot Type B landscape bufferyard requirement to allow a bufferyard to be as narrow as eight feet in width, situated at 2500 Block of Southwest Loop 410, applicant being Charles Pope.

I move that the Board of Adjustment grant the applicant’s request for the 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. *The variance is not contrary to the public interest.*

**The public interest is represented by the quantity of plantings required in a bufferyard to separate incompatible uses. The eight foot bufferyard is not contrary to public interest as it does not negatively impact any surrounding properties or the general public. This development would have similar landscaping to a property north of the proposed buildings. The owner is doubling the required bufferyard depth along Loop 410. As the owner is not asking for the complete elimination of the bufferyard, the request is not contrary to the public interest.**

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*

**Literal enforcement would not allow the development of the new buildings as proposed. Approval of the requested variance would provide a safe, enclosed parking area towards the property.**

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

**The spirit of the ordinance will be observed as the proposed bufferyard will sufficiently screen the street and traffic from any visual clutter and will improve the existing streetscape.**

4. *The variance will not authorize the operation of a use other than those uses specifically authorized.*

**The requested variances will not authorize the operation of a use on the subject property other than those specifically permitted in the “C-2S AHOD” Commercial Airport Hazard Overlay District with Specific Use Authorization for a Carwash.**



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 introduction of an eight foot buffer along Poteet Jourdanton Freeway would only enhance the overall appearance of the site, streetscape, and 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, 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 in this case is the drainage features along both roadways of the subject location. These are not the fault of the owner and are not merely financial in nature.” Mr. Neff seconded the motion.**

**AYES: Teel, Neff, Martinez, Rodriguez, Finlay, Britton, Dr. Zottarelli, Rogers, Kuderer**

**NAYS: None**

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

**Mr. Oroian returned to the meeting at 2:10pm**

#### **Case Number: A-18-040**

Applicant: Joseph Garcia

Owner: Joseph Garcia

Council District: 2

Location: 906 East Crockett Street

Legal Description: Lot 8, Block 8, NCB 583

Zoning: “RM-4 H AHOD” Residential Mixed Dignowity Hill

Historic Airport Hazard Overlay District

Case Manager: Dominic Silva, Planner

#### **Request**

A request for 1) a special exception, as described in Section 35-514, to allow a six foot and six inch tall predominately open fence in the front yard and 2) a request for a special exception, as described in Section 35- 514, to allow a six foot and six inch tall solid screen fence in a portion of the front yard of the property and 3) a two foot and eleven inch variance from the three foot side setback, as described in Section 35-370, to allow a detached patio cover to be one inch from the side property line.

Dominic Silva, Planner, presented background information, and staff’s recommendation of the variance requests. He indicated 36 notices were mailed, 0 returned in favor, 0 returned in opposition and no response from the Dignowity Hill Neighborhood Association.

Joseph Garcia, applicant requested clarification of staff's recommendations. According to Mr. Garcia the Historical commission approved his request then stated he built the fence in order to protect his family from the illegal activity next door. He submitted a list of Police reports regarding drug activity, gunshots, fights, prostitution and trespassing and asked for the Board's approval.

**The following citizens appeared to speak.**

Gloria Garcia, 906 E. Crockett- spoke in favor

F.R. Garcia, 516 Iowa - 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-18-040 closed.

**MOTION**

A motion was made by **Mr. Neff**. "Regarding Appeal No A-18-040, for 1) a special exception to allow a six foot six inch tall predominately open fence in the front yard and 2) a request for a special exception to allow a six foot six inch solid screen fence **on the east property line** and in the front yard of the property, situated at 906 East Crockett Street, applicant being Joseph Garcia.

I move that the Board of Adjustment grant the applicant's request for the variances 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:

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

**The UDC states the Board of Adjustment can grant a special exception for a fence height modification up to eight feet. The additional fence height is intended to provide safety, security, and privacy of the applicant's family. If granted, this request would be in harmony with the spirit and purpose of the ordinance.**

- 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, while promoting a sense of community. A six foot six inch predominately open fence along with the six foot six inch privacy fence was built along the east property line to provide additional security for the applicant's family. Both fence heights will serve to provide increased privacy and security of the property. This is not contrary to the public interest.**

- C. *The neighboring property will not be substantially injured by such proposed use.*

**Both fences will create enhanced security for the subject property and is highly unlikely to injure adjacent properties. Further, both fences do not obscure the neighboring property's vision from their driveway.**



- 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 fencing does not detract from the character of the neighborhood. The Historic and Design Review Commission approved the applicants request due to the location of the home and the fact that the changes are reversible.**

- E. *The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district.*

**The property is located within the “RM-4 H AHOD” Residential Mixed Dignowity Hill Historic Airport Hazard Overlay District and permits the current use of a single-family home. The requested special exception will not weaken the general purpose of the district.” The motion was seconded by Mr. Martinez.**

**AYES: Neff, Martinez, Rodriguez, Teel, Finlay, Britton, Dr. Zottarelli, Rogers, Oroian, Kuderer**

**NAYS: None**

### **THE VARIANCE IS GRANTED**

A motion was made by **Mr. Neff**. “Regarding Appeal No A-18-040, for a two foot and eleven inch variance from the three foot side setback to allow a detached patio cover to be one inch from the side property line, situated at 906 East Crockett Street, applicant being Joseph Garcia.

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 variances are not contrary to the public interest as the structure provides room for maintenance, will not create water runoff on the adjacent property, and will not injure the rights of the adjacent property owners.**

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*

**Literal enforcement of the ordinance would result in not allowing the owner of the property to keep the requested detached patio cover as requested.**

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

**Substantial justice will be done as the requested setbacks of the patio cover will still provide for a safe development pattern. The request provides fair and equal access to air and light, and provide for adequate fire separation.**

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 permit a use not authorized within the “RM-4 H AHOD” Residential Mixed Dignowity Hill Historic Airport Hazard Overlay District.**

5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*

**If the requested variances are approved, the covered patio will not alter the character of the district as it is within the rear of the property that is highly unlikely to be visible from the front and side 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 plight of the owner is due to unique nature of the side and rear layout of properties adjacent to the applicant’s, with Armstrong Place running behind the property, leaving little developable space for the requested patio cover.” Mr. Rodriguez seconded the motion.**

**AYES: Neff, Rodriguez, Martinez, Teel, Finlay, Britton, Dr. Zottarelli, Rogers, Oroian, Kuderer**

**NAYS: None**

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

**The Board of Adjustment convened for a 10 minute break at 2:50pm and reconvened at 3:00pm.**

**Item #A-18-045 was moved to the end of the agenda to give the applicant time to appear and speak on their case.**

#### **Case Number: A-18-048**

Applicant: Enrique Guerrero

Owner: Enrique Guerrero

Council District: 5

Location: 205 Del Valle Alley

Legal Description: Lot 22, NCB 2402

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

Case Manager: Dominic Silva, Planner



**Request**

A request for 1) a two foot variance from the five foot side setback on the west side as described in Section 35-310.01, to allow the house to be three feet away from the property line, 2) a two foot five inch variance from the five foot side setback on the east side to allow the house to be two feet seven inches away from the side property line, and 3) a seventeen foot variance from the twenty foot rear setback, as described in Section 35- 310.01, to allow the house to be as near as three feet from the rear property line.

Logan Sparrow, Principal Planner, presented background information, and staff's recommendation of the variance request. He indicated 45 notices were mailed, 0 returned in favor, 0 returned in opposition and no response from the Guadalupe Westside Neighborhood Association.

Enrique Guerrero, applicant stated he has never owned a home prior to buying this property from the City. He paid all back taxes even though the property has no pulled permits or utilities. Even after hiring a contractor still no permits were pulled. Now he is trying to bring all variances and permits up to code to sell the property.

**The following citizens appeared to speak.**

Estella Cepeda – signed in to speak but left the meeting early.

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-18-048 closed.

**MOTION**

A motion was made by **Mr. Martinez**. "Regarding Appeal No A-18-048, A request for 1) a two foot variance from the five foot side setback on the west side to allow the house to be three feet away from the property line, 2) a two foot and five inch variance from the five foot side setback on the east side to allow the house to be two feet and seven inches away from the side property line, and 3) a seventeen foot variance from the twenty foot rear setback to allow the house to be as near as three feet from the rear property line, situated at 205 Del Valle Alley, applicant being Enrique Guerrero.

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, given the lot constraints, granting the variances still provides adequate accessibility to light, air, and open space.**

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*

**A literal enforcement of the ordinance would result in unnecessary hardship by requiring the demolition of the entire structure. Further, if enforced, the ordinance would significantly reduce the amount of developable space on each site. The small lot configurations are the result of an old subdivision and the lots are similar to the lot scheme of the neighborhood.**

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

**The spirit of the ordinance is the intent of the code, rather than the strict letter of the law. The intent of the setback limitation is to prevent fire spread, allow adequate space for maintenance, and encourage proper storm water drainage. All intents of this law will be observed if approved.**

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 permit a use not authorized within 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.*

**This variance would not substantially injure or alter the use or character of adjacent conforming property or character of the district. Specifically, the variance would not place the structure out of character within the community. Further, the residential structure is following a district norm of reduced setbacks for all houses built within the area.**

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 circumstances existing on the property are neither due to the general conditions of the district, nor due to the owner, and is not financial in nature. The character of reduced lot sizes within the district is uniform, leaving little room for proper building setbacks. This is created by the proliferation of older, outdated substandard lots currently zoned “R-4.” Mr. Martinez seconded the motion.**

**AYES: Martinez, Rodriguez, Neff, Teel, Finlay, Britton, Dr. Zottarelli, Rogers, Oroian, Kuderer**

**NAYS: None**

**THE VARIANCE IS GRANTED.**



**Case Number: A-18-049**

Applicant: Edward A. Hernandez

Owner: Anthony G. Vaticalos

Council District: 2

Location: 1755 Center Street North

Legal Description: The South 75 feet of lot 14, Block 25, NCB 6446

Zoning: "R-4 EP-1 AHOD" Residential Single-Family Facility

Parking/Traffic Control Airport Hazard Overlay District

Case Manager: Dominic Silva, Planner

**Request**

A request for a twelve foot variance from the twenty foot rear setback, as described in Section 35.310.01, to allow an addition to be as close as eight feet from the rear property line.

Dominic Silva, Planner, presented background information, and staff's recommendation of the variance request. He indicated 34 notices were mailed, 0 returned in favor, 0 returned in opposition and no response from the Jefferson Heights Neighborhood Association.

Edward A. Hernandez, stated he wanted to extend the home eight feet to make the home more habitable for the home owner and asked for the Board's approval.

**The following citizens appeared to speak.**

Joyce Sherman, 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-18-049 closed.

**MOTION**

A motion was made by Mr. Neff. "Regarding Appeal No A-18-049 "A request for a twelve foot variance from the twenty foot rear setback, as described in Section 35.310.01, to allow an addition to be as close as eight feet from the rear property line, situated at 1755 Center Street, applicant being Edward A. Hernandez.

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 addition will provide adequate habitable living space while also maintaining a rear setback for accessibility to light, air, and open space. The Board finds the request is not contrary to the public interest.**

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*

**Due to the limited space of the existing primary dwelling, a literal enforcement of the ordinance would result in unnecessary hardship by significantly reducing the amount of developable space on this site and others in the neighborhood.**

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

**The spirit of the ordinance is the intent of the code, rather than the strict letter of the law. The intent of the setback limitation is to prevent fire spread, allow adequate space for maintenance, and encourage proper storm water drainage. All intents of this law will be observed if approved.**

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 permit a use not authorized within the “R-4 EP-1 AHOD” Residential Single-Family Facility Parking/Traffic Control 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.*

**This variance would not substantially injure or alter the use or character of adjacent conforming property or character of the district. Specifically, the addition is to the rear of the home, not visible from the front yard, and elevated from the side yard view.**

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 circumstances existing on the property are neither due to the general conditions of the district, nor due to the owner, and is not financial in nature. The plight of the owner stems from a portion of the lot being sold off in the past.” Mr. Martinez seconded the motion.**

**AYES: Neff, Martinez, Rodriguez, Teel, Finlay, Britton, Dr. Zottarelli, Rogers, Oroian, Kuderer**  
**NAYS: None**

**THE VARIANCE IS GRANTED.**





**Case Number: A-18-054**

Applicant: Angela Menchaca

Owner: Joseph Daniel Hernandez

Council District: 5

Location: 338 Simon Street

Legal Description: Lot 8, Block 2, NCB 2826

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

Case Manager: Dominic Silva, Planner

**Request**

A request for a two and a half foot variance from the five foot side setback requirement, as described in Section 35-310.01, to allow an attached two-story room addition to be built two and a half feet from the side property line.

Dominic Silva, Planner, presented background information, and staff's recommendation of the variance request. He indicated 19 notices were mailed, 0 returned in favor, 0 returned in opposition and no response from the Lone Star Neighborhood Association.

Angela Menchaca, stated she is requesting the special exception to increase the size of her home for her growing family. She has hired an engineer and wishes to follow all codes required by the City and asked for the Boards approval.

**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-18-054 closed.

**MOTION**

A motion was made by Neff. "Regarding Appeal No A-18-054, "A request for a two and a half foot variance from the five foot side setback requirement, as described in Section 35-310.01, to allow an attached two-story room addition to be built two and a half feet from the side property line, situated at 338 Simon Street, applicant being Angela Menchaca.

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 addition will provide adequate habitable living space while also maintaining a minimum side setback for accessibility to light, air, and open space. The Board finds the request is not contrary to the public interest.**

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*

**Due to the limited space of the existing primary dwelling, a literal enforcement of the ordinance would result in unnecessary hardship by significantly reducing the amount of developable space on this site.**

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

**The spirit of the ordinance is the intent of the code, rather than the strict letter of the law. The intent of the setback limitation is to prevent fire spread, allow adequate space for maintenance, and encourage proper storm water drainage. All intents of this law will be observed if approved.**

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 permit a use not authorized within 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.*

**The Board finds this variance would not substantially injure or alter the use or character of adjacent conforming property or 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 unique circumstances existing on the property are neither due to the general conditions of the district, nor due to the owner, and is not financial in nature. The plight of the owner stems from the lack of developable space existing on the side property." Mr. Teel seconded the motion.**


**AYES: Neff, Teel, Martinez, Rodriguez, Finlay, Britton, Dr. Zottarelli, Rogers, Kuderer**  
**NAYS: Oroian**

**THE VARIANCE IS GRANTED.**







Mr. Martinez made a motion to continue case **#A-18-045** to April 16, 2018. A voice vote was taken and passed unanimously.



Mr. Kuderer made a motion to approve the March 5, 2018 minutes with all members voting in the affirmative.



Manager's report: None



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

