

**BOARD OF ADJUSTMENT  
OFFICIAL MINUTES  
August 6, 2018**

Members Present:	Dr. Zottarelli Alan Neff Paul Klein George Britton Jr Maria Cruz Paul Klein Mary Rogers Donald Oroian John Kuderer Roger Martinez Henry Rodriguez Jay Gragg	Staff: Catherine Hernandez, DSD Administrator Joseph Harney, City Attorney Logan Sparrow, Principal Planner Debora Gonzalez, Senior Planner Dominic Silva, Planner
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**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.

German Perez, Interpreter, World Wide Languages, 234 W. Sunset, present

Case #A-18-134 has been postponed.

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Case Number:	A-18-112
Applicant:	Thelma Pena
Owner:	Thelma Pena
Council District:	2
Location:	117 Buford Alley
Legal Description:	The South 79.1 Feet of Lot 3, Block 6, NCB 1369
Zoning:	"R-4 H AHOD" Residential Single-Family Dignowity Hill Historic Airport Hazard Overlay District
Case Manager:	Debora Gonzalez, Senior Planner

**Request**

A request for a 9.5' variance from the 20' rear setback, as described in Section 35-310.01, to allow an addition to be 10.5' from the rear property line.

Debora Gonzalez, Senior Planner presented the background information and staff's recommendation of the variance. She indicated 42 notices were mailed, 1 returned in favor, and 0 returned in opposition with no response from the Dignowity Hill Neighborhood Association.

Thelma Pena, 117 Buford Alley, stated she has a large family and needs the extra room for her children.

**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-18-112 closed.

Mr. Neff made a motion. "Regarding Appeal No A-18-112 a request for a 9.5' variance from the 20' rear setback to allow an addition to be 10.5' from the rear property line, situated at 117 Bufford Alley, applicant being Thelma Pena.

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:

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 existing structure is 10.5' from the rear property line and the addition aligns with the existing footprint. 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*

**A literal enforcement of the ordinance would result in unnecessary hardship by requiring the addition to be moved to meet the rear setback. The structure will still be required to obtain permits, reviews, and inspections.**

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

**The intent of rear setback is to create an open area without crowding of structures and to establish uniform development standards to protect the rights of property owners. The addition will not significantly disrupt uniformity and will not injure the rights of adjacent property owners.**

4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the subject property is located.*

**The variance will not authorize the operation of a use other than those uses specifically authorized in the "R-4 H AHOD" Residential Single-Family 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.*

**The addition will not detract from the neighborhood as the addition will not deviate from the existing side setbacks and further, the rear addition is unlikely to go noticed. Specifically, the variance would not place the structures out of character within the community. Many homes within this community were built prior to the establishment of required setbacks. The Historic and Design Review Commission reviewed the request and recommended approval on February 7, 2018.**

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 original dwelling layout on the lot which restricts the owner's ability to construct any addition without encroaching into the rear setbacks. This issue is not merely financial in nature." Mr. Martinez seconded the motion.**

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

**NAYS: None**

#### **VARIANCE IS GRANTED**

Case Number:	A-18-123
Applicant:	Alejandro Cantu
Owner:	Alejandro Cantu
Council District:	1
Location:	2415 North Flores Street
Legal Description:	The South 54.13 Feet of Lot 8, Block 6, NCB 1892
Zoning:	"R-6 NCD-2 AHOD" Residential Single-Family Alta Vista Neighborhood Conservation Airport Hazard Overlay District
Case Manager:	Debora Gonzalez, Senior Planner

#### **Request**

A request for 1) a 2' variance from the Alta Vista Neighborhood Conservation District design requirement that limits front yard predominately open fencing to 4' to allow a 6' tall predominantly fence along a portion of the front and side yard and 2) a request for a 4' variance from the Alta Vista Neighborhood Conservation District design requirement that limits front yard solid screen fencing to 2' to allow for a 6' tall solid wood fence is a portion of the front yard and 3) a request for a variance from the Clear Vision requirements to allow fencing within the Clear Vision area and 4) a 4'11" variance from the required 5' side setback, as described in Section 35-310.01, to allow a carport to be 1" from the side property line.

Debora Gonzalez, Senior Planner presented the background information and staff's recommendation of the variance. She indicated 28 notices were mailed, 0 returned in favor, and 0 returned in opposition with Alta Vista Neighborhood Association is in opposition.

Alejandro Cantu Jr, representative, 3745 Herman St. Round Rock Texas, the fence was built for added security from vagrants and the homeless. Once work was started on the first project it was then he discovered he needed a second variance.

**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-18-123 closed.

Dr. Zottarelli made a motion. ***"Regarding Appeal No A-18-123, a request for a 2' variance from the Alta Vista Neighborhood Conservation District design requirement that limits front yard predominately open fencing to 4' to allow a 6' tall fence along a portion of the front and side yard and 2) a request for a 4' variance from the Alta Vista Neighborhood Conservation District design requirement that limits front yard solid screen fencing to 2' to allow for a 6' tall solid wood fence is a portion of the front yard*** situated at 2415 North Flores Street, applicant being Alejandro Cantu.

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 defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by required setbacks and clear vision to ensure equal access to air, light, and distance for fire separation, including the protection of vehicles from weather conditions.**

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 the applicant removing all upgrades to the property that were made before the applicant purchased the property which would result in unnecessary financial 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 is the intent of the Code, which in this case, is the allowance for the protection of vehicles under adequate shelter and increased fence height for security and privacy. By granting the variance, the spirit and intent of the code will be observed.**

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

**The variance will not authorize the operation of a use other than those uses specifically authorized by the "R-6 NCD-2 AHOD" Residential Single-Family Alta Vista 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 Board finds that the fencing height and material, as well as the carport, as built, does not alter the essential character of the district in which the property is located nor injure the use of adjacent conforming 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 plight of the owner stems from the applicant purchasing the property as-is, unaware many features of the property were not in compliance with code. This is not merely financial in nature.” Mr. Teel seconded the motion.**

**Mr. Neff made an amendment to allow the side privacy fence #2 only and Dr. Zottarelli accepted the amendment. Mr. Kuderer asked for a voice vote and passed unanimously.**

**Mr. Kuderer asked for a roll call vote on item #2.**

**AYES: Martinez, Oroian, Neff, Cruz, Teel, Klein, Britton, Rodriguez, Kuderer**

**NAYS: Dr. Zottarelli, Rogers,**

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

**Mr. Oroian made a motion.** “Regarding Appeal No A-18-123, a request for a 4’11” variance from the required 5’ side setback to allow a carport to be 1” from the side property line, situated at 2415 North Flores Street, applicant being Alejandro Cantu.

**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 defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by required setbacks and clear vision to ensure equal access to air, light, and distance for fire separation, including the protection of vehicles from weather conditions.**

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 the applicant removing all upgrades to the property that were made before the applicant purchased the property which would result in unnecessary financial 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 is the intent of the Code, which in this case, is the allowance for the protection of vehicles under adequate shelter and increased fence height for security and privacy. By granting the variance, the spirit and intent of the code will be observed.**

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

**The variance will not authorize the operation of a use other than those uses specifically authorized by the "R-6 NCD-2 AHOD" Residential Single-Family Alta Vista 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 Board finds that the fencing height and material, as well as the carport, as built, does not alter the essential character of the district in which the property is located nor injure the use of adjacent conforming 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 plight of the owner stems from the applicant purchasing the property as-is, unaware many features of the property were not in compliance with code. This is not merely financial in nature." Mr. Martinez seconded the motion.**



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

**THE VARIANCE IS GRANTED**

**Mr. Kuderer called for a motion on item #3. None was made and dies for the lack of a motion.**

Case Number: A-18-132  
Applicant: Antonio San Martin  
Owner: Antonio San Martin  
Council District: 7  
Location: 315 Thomas Jefferson Drive  
Legal Description: Lots 31 and 32, Block 7, NCB 7078  
Zoning: "R-6 NCD-7 AHOD" Residential Single-Family Jefferson  
Neighborhood Conservation Airport Hazard Overlay District  
Case Manager: Debora Gonzalez, Senior Planner

**Request**

A request for a 6' variance from the maximum 12' driveway width, as described in the Jefferson Neighborhood Conservation District design requirements, to allow a driveway to be 18' wide.

Debora Gonzalez, Senior Planner presented the background information and staff's recommendation of the variance. She indicated 28 notices were mailed, 0 returned in favor, and 1 returned in opposition with no response from the Jefferson Neighborhood Association.

Antonio San Martin, applicant stated his contractor poured concrete and expanded the driveway without asking. He explained he does not want the whole driveway widened and just wants his vehicles off the street.

**The following citizens appeared to speak.**

Toni Cadena, 325 Meredith, spoke in opposition.

Elia Reyna, 1723 W. Huisache, 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-18-132 closed.

Mr. Oroian made a motion. "Regarding Appeal No A-18-132, a request for a 6' variance from the maximum 12' driveway width to allow a driveway to be 18' wide, situated at 315 Thomas Jefferson Drive, applicant being Antonio San Martin.

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 defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by the Neighborhood Conservation District design requirements. Increasing the driveway width in the front yard of the property is not contrary to the public as it keeps a cohesive design throughout the community.**

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

**A literal enforcement of the ordinance would require the applicant to remove that portion of the driveway that goes against the design requirements stated in the Neighborhood Conservation District design guidelines which would result in unnecessary financial hardship.**

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

**Substantial justice will be served as the driveway, as built, meets the intent of the design requirements of the Neighborhood Conservation District while limiting impervious cover of the front yard to a minimum.**

4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the subject property is located.*

**The variance will not authorize the operation of a use other than those uses specifically authorized in the "R-6 NCD-7 AHOD" Residential Single-Family Jefferson 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 requested variance will not significantly alter the essential character of the district. As the goal of the Neighborhood Conservation District is to maintain and preserve the community, the request both maintains and preserves while limiting injury to adjacent conforming 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 plight of the owner is due length of unimproved driveway extending from the rear of the property to the street and the design guidelines limiting width, which leaves little room for improvement.” Mr. Martinez seconded the motion.**

**AYES: Oroian, Martinez, Dr. Zottarelli, Neff, Rodriguez, Cruz, Klein, Teel, Britton, Kuderer**

**NAYS: Rogers**

### **THE VARIANCE IS GRANTED**

**The Board of Adjustment convened for a break at 2:40pm and returned at 2:50pm**

Case Number:	A-18-117
Applicant:	Ebodia Villarreal
Owner:	Ebodia Villarreal
Council District:	5
Location:	347 Obregon Street
Legal Description:	Lot 23, NCB 6876
Zoning:	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District
Case Manager:	Debora Gonzalez, Senior Planner

### **Request**

A request for a 16.5’ variance from the 20’ rear yard setback, as described in Section 35-310.01, to allow an addition to be 3.5’ from the rear property line.

Debora Gonzalez, Senior Planner, presented background, and staff’s recommendation of the variance requests. She indicated 47 notices were mailed, 0 returned in favor, and 2 returned in opposition with no response from the Collins Gardens Neighborhood Association.

Ebodia Villarreal, applicant, **requested spanish interpretation**, apologized for building without a permit and stated they built the addition because she has a large family and could not buy neighboring houses. Two of her children sleep on the floor and wished to give them their own room.

### **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-18-117 closed.

Mr. Martinez made a motion. “Regarding Appeal No A-18-117, a request for a 16.5’ variance from the 20’ rear yard setback to allow an addition to be 3.5’ from the rear property line, situated at 347 Obregon Street, applicant being Ebodia Villarreal.

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 variances are not contrary to the public interest as the addition provides room for maintenance, will not create water runoff, and will not injure the rights of the adjacent property owners.*
1. *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 addition as built.**
2. *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 setback will still provide for a safe development pattern.**
3. *The variance will not authorize the operation of a use other than those uses specifically authorized.*  
**The variance will not authorize the operation of a use other than those uses specifically authorized in the "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District.**
4. *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 addition will not alter the character of the district as it is within the rear of the property and highly unlikely to be visible from the front property.**
5. *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 the size of the lot and size of the existing residence. This is not merely financial in nature."** Mr. Martinez seconded the motion.

**Mr. Oroian made a motion to limit the Buffer yard to the Southern portion of the property. Ms. Ojeda seconded the amendment. A voice vote was taken and passed unanimously.**

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

**NAYS: None**



**THE VARIANCE IS GRANTED**

The Board of Adjustment convened for a break at 2:40pm and returned at 2:53pm.

Case Number: A-18-125  
Applicant: Rosa Cazares  
Owner: Rosa Cazares  
Council District: 5  
Location: 100 Faust Avenue  
Legal Description: Lots 22 & 23, Block 10, NCB 8255  
Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District  
Case Manager: Dominic Silva, Planner

**Request**

A request for a 13.5' variance from the 20' rear setback, as described in Section 35.310.01, to allow the structure to have as little as 6.5' rear setback.

Dominic Silva, Planner, presented background, and staff's recommendation of the variance requests. He indicated 27 notices were mailed, 0 returned in favor, and 0 returned in opposition with no response from the Prospect Hill Neighborhood association.

Rosa Cazares, applicant, interpreted by her daughter Yirdre Cazares, stated she works nights and needs the extra room for her Daughter and grandchildren.

**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-18-125 closed.

Ms. Cruz made a motion. "Regarding Appeal No A-18-125, a request for a 13.5' variance from the 20' rear setback to allow the structure to have as little as 6.5' rear setback, situated at 100 Faust Avenue, applicant being Rosa Cazares.

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 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 due to the rear alley. 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. The 100-year flood plain does not allow for a separate habitable structure to be added; an attached addition is permitted.**

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 open space between structures. 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 subject property 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. Many properties within the immediate vicinity have additions due to the size constraints of the primary residences.**

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 due to the general conditions of the district, specifically the constraints of development within the 100-year flood plain. Nor due to the owner, and is not financial in nature. The plight of the owner is not merely financial in nature." Mr. Rodriguez seconded the motion.**

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

**NAYS: None**

**THE VARIANCE IS GRANTED**



Case Number: A-18-126  
Applicant: Miriam Ade  
Owner: Miriam Ade  
Council District: 9  
Location: 139 Kenley Place  
Legal Description: Lot 18, Block 13, NCB 13827

Zoning: "C-2 CD S MLOD-1 AHOD" Commercial Camp Bullis Military Lighting Overlay Airport Hazard Overlay Edwards Recharge Zone District with Conditional Use and Specific Use Authorization for an Office Warehouse

Case Manager: Dominic Silva, Planner

### **Request**

A request for 10' variance from the 25' maximum building height, as described in Section 35-310.01, to allow a building to be 35' tall.

Dominic Silva, Planner, presented background, and staff's recommendation of the variance requests. He indicated 13 notices were mailed, 0 returned in favor, and 0 returned in opposition with no neighborhood association.

Brian Wiggins on behalf of Miriam Ade, applicant did not realize he needed a 40ft easement and wanted to maximize his space, which left him a need for this variance.

### **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-18-126 closed.

Mr. Klein made a motion. "Regarding Appeal No A-18-126, a request for a 10' variance from the 25' maximum building height to allow a building to be 35' tall, situated at 139 Kenley Place, applicant being Miriam Ade.

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 defined as the general health, safety, and welfare of the public. In this case, the variances are not contrary to the public interest as the proposed structure is similar to other structures in the immediate vicinity.**

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

**Strict enforcement would require an alternate design of the proposed structure.**

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 proposed height of the structure will still provide for a safe development pattern. The small irregular lot does not provide adequate room for a large footprint and requires lateral development.**

4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the subject property is located.*

**The variance will not authorize the operation of a use other than those uses specifically authorized in the "C-2 CD S MLOD-1 AHOD ERZD" Commercial Camp Bullis Military Lighting Overlay Airport Hazard Overlay Edwards Recharge Zone District with Conditional Use and Specific Use Authorization for an Office Warehouse**

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 will not injure the appropriate use of the neighboring conforming property as the applicant is seeking only 10' more than what the current zoning allows. This will be in line with other structures within the immediate 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.*

**As the proposed structure will be placed on a small, irregularly shaped lot, space is limited for a large footprint. Thus, lateral development is a more efficient option. Further, adjacent lots are permitted building heights of 35'. This issue is not merely financial in nature." Mr. Britton seconded the motion.**

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

**NAYS: None**

## **THE VARIANCE IS GRANTED**

Case Number: A-18-127  
Applicant: Joanne Hendley  
Owner: Joanne Hendley  
Council District: 10  
Location: 16815 Winding Oak Drive  
Legal Description: Lot 8, Block 4, NCB 17721



Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District  
Case Manager: Dominic Silva, Planner

### **Request**

A request for an 7.5' variance from the required 10' front setback, as described in Section 35-310.01, to allow a carport to remain 2.5' from the front property line.

Dominic Silva, Planner, presented background, and staff's recommendation of the variance requests. He indicated 28 notices were mailed, 3 returned in favor, and 0 returned in opposition with no neighborhood association.

Joanne Hendly, 16815 Winding Oak Drive, stated she believes the carport beautifies the neighborhood and is needed for safety and protection from the weather.

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

Joyce Belligan, 16810 Winding Oak Drive, spoke in favor.

Elizabeth Mendez, 1602 Jackson Keller, spoke in favor.

Kevin London, 16802 Cedar Tree Way, 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-18-127 closed.

Mr. Martinez made a motion. "Regarding Appeal No A-18-127, a request for a 7.5' variance from the required 10' front setback to allow a carport to be 2.5' from the front property line, situated at 16815 Winding Oak Drive, applicant being Joanne Hendley.

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:

1. *The variance is not contrary to the public interest.*

**Allowing a carport to be built within the front setback of the subject property allows increased space within Winding Oak Drive by removing cars from the street. The Board finds that 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*

**If enforced, the ordinance would significantly increase physical hardship for the subject owner and promote increased roadside parking.**

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 will still provide for a safe development pattern. The request provides adequate protection for the owner, and no storm water runoff will drain onto adjacent property.**

4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the subject property is located.*

**The variance will not authorize the operation of a use other than those uses specifically authorized in the "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District.**

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

**The carport does not encroach into the side setback, so trespass and water runoff are not a concern. The Board finds that construction of the carport is highly unlikely to injure the essential 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 circumstance existing on the site was created by the original design of the lots within the subdivision, which creates decreased room for accessory structures." Mr. Rodriguez seconded the motion.**

**AYES: Rodriguez, Britton**

**NAYS: Martinez, Oroian, Neff, Klein, Teel, Rogers, Cruz, Dr. Zottarelli, Kuderer**

## **THE VARIANCE FAILED**

Case Number:	A-18-129
Applicant:	Jose J. Calzada
Owner:	Diana Gonzalez
Council District:	9
Location:	2927 TPC Parkway
Legal Description:	Lot 3, Block 13, NCB 18218
Zoning:	"C-1 MLOD-1 ERZD" Light Commercial Camp Bullis Military Lighting Overlay Edwards Recharge Zone District
Case Manager:	Dominic Silva, Planner

## **Request**

A request for a 1,300 square foot variance from the maximum 5,000 square foot building size, as described in Section 35-310.01, to allow a building to be 6,300 square feet.



Dominic Silva, Planner, presented background, and staff's recommendation of the variance requests. He indicated 23 notices were mailed, 1 returned in favor, and 0 returned in opposition with no neighborhood association.

Jose J. Calzada, applicant stated after construction had begun the applicant realized they needed more space to fit their needs. They also stated they wished to conserve trees where possible.

**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-18-129 closed.

Mr. Oroian made a motion. "Regarding Appeal No A-18-129, a request for a 1,300 square foot variance from the maximum 5,000 square foot building size to allow a building to be 6,300 square feet, situated at 2927 TPC Parkway, applicant being Jose J. Calzada.

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.*

**Given the large lot size and width, the applicant is requesting a 25% increase from the allowable footprint, with 600 square feet of that space reserved for a mechanical data and electrical mezzanine. The variance is highly unlikely to be noticed from the public right-of-way.**

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

**A literal enforcement would decrease the space available for use of the facility considerably and result in 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 is the intent of the requirement rather than the strict letter of the law. The design of the proposed structure maintains the spirit of the ordinance by placing parking in the rear of the facility.**

4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the subject property is located.*

**The requested variances will not authorize the operation of a use on the subject property other than those specifically permitted in the "C-1 MLOD-1 ERZD" Light Commercial Camp Bullis Military Lighting Overlay Edwards Recharge Zone 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 size of the proposed medical facility is proportional with the size of the lot. The structure will not impose any immediate threat of water runoff or fire spread on adjacent properties due to all setbacks and buffer yards adhered to.**

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 of the property for which the variance is sought is due to the substantial lot size compared to the proposed building size. The structure will be proportional in size with the lot and all setbacks and buffer yards adhered to.” Mr. Martinez seconded the motion.**

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

**NAYS: None**

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

Case Number:	A-18-130
Applicant:	Adler Family Living Trust
Owner:	Adler Family Living Trust
Council District:	7
Location:	9906 Cochem Path
Legal	Lot 2, Block 25, NCB 15663
Description:	
Zoning:	“RM-4” Residential Mixed District
Case Manager:	Dominic Silva, Planner

#### **Request**

A request for a 1.75’ variance from the 20’ garage setback, as described in Section 35-516, to allow a garage to be 18.25’ from the front property line.

Dominic Silva, Planner, presented background, and staff’s recommendation of the variance requests. He indicated 23 notices were mailed, 0 returned in favor, and 0 returned in opposition with no neighborhood association.

Walter Adler, applicant stated the property was bought sight unseen and once they realized the variance needed they applied for it.

**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-18-130 closed.

Mr. Teel made a motion. "Regarding Appeal No A-18-130, a request for a 1.75' variance from the 20' garage setback to allow a garage to be 18.25' from the front property line, situated at 9906 Cochem Path, applicant being Adler Family Living Trust.

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 variance of 1.75' is not contrary to public interest as it does not negatively impact any surrounding properties or the general public. The garage is not out of character within the district as it follows the same building design as other residences within the area.**

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

**Currently, the applicant has room to park a mid-size sedan without encroaching upon the front property line at the narrowest point of the front yard. Literal enforcement of the ordinance would result in the owner modifying the garage and creating unnecessary financial 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 is the intent of the requirement rather than the strict letter of the law. The attached garage was built in conjunction with the primary residence and is not overwhelming in size or out of character within the district.**

4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the subject property is located.*

**The variance will not authorize the operation of a use other than those uses specifically authorized by the "RM-4" Residential Mixed 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 property is located in a district characterized by newly built homes with attached front-facing garages. Such variance will not injure nor alter the essential 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 variance being sought is due to an irregular shaped lot being located within a cul-de-sac. Due to the irregular shaped front property line and curvature, the garage encroaches 1.75' into the front setback. The variance being sought is not merely financial in nature." Mr. Oroian seconded the motion.**

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

**NAYS: None**

### **THE VARIANCE IS GRANTED**

Before motioning for approval of the July 2, 2018 Meeting Minutes, Mr. Neff requested clarification of the votes to correctly reflect the vote taken related to the motions for the amendments to the July 2, 2018 Minutes.

The Chair agreed the vote should be clarified by staff.

The Board tabled the vote pending the clarification requested.

Manager's Report: Staff gave an update on the 6 new alternates for the Board of Adjustment that will be heard at the August 16, 2018 City Council Meeting.

There being no further discussion, meeting adjourned at 4:48 p.m.



