

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
August 20, 2018**

Members Present: Dr. Zottarelli
Alan Neff
Eugene Polendo
Cyra Trevino
Maria Cruz
Seth Teel
Mary Rogers
Donald Oroian
John Kuderer
Roger Martinez
Henry Rodriguez
Arlene Fisher

Staff:
Catherine Hernandez, DSD Administrator
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.

Carnes Lane, Interpreter, World Wide Languages, 234 W. Sunset, present

Leticia Vacek, Office of the City Clerk, gave the Oath of Office to Eugene Polendo, Cyra Trevino, Arlene Fischer and Kimberly Bragman as Alternates to the Board of Adjustment.

Case #A-18-140 has been postponed.

Case Number: A-18-118
Applicant: William Evans
Owner: William Evans
Council District: 3
Location: 3303 Pollydale Avenue
Legal Description: Lot 26, Block 6, NCB 13080
Zoning: "R-5" Residential Single-Family District
Case Manager: Debora Gonzalez, Senior Planner

Request

A request for 1) a 4'11" variance from the 5' side setback, as described in Section 35-310.01, to allow an attached patio cover to be 1" from the side property line, and 2) a 4.5' variance from the 20' rear yard setback, as described in Section 35-310.01, to allow an attached patio cover to have a 15.5' rear setback.

Dominic Silva, Planner presented the background information and staff's recommendation of the variance. He indicated 24 notices were mailed, 0 returned in favor, and 0 returned in opposition and the Highland Hill Neighborhood Association is opposed.

Michael Zamora, 3303 Pollydale Avenue, representative stated the applicant began construction on the carport without a permit and received a stop work order from the city. He later that day paid for the permit. Once he began construction again he was ticketed for a setback violation.

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-18-118 closed.

Mr. Martinez made a motion. "Regarding Appeal No A-18-118, a request for 1) a 4'11" variance from the 5' side setback to allow an attached patio cover to be 1" from the side property line, and 2) a 4.5' variance from the 20' rear yard setback to allow an attached patio cover to have a 15.5' rear setback, situated at 3303 Pollydale Avenue, applicant being William Evans.

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 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 attached patio cover as built.

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 attached 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*

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

If the requested variances are approved, the attached patio cover 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 the corner lot size. The applicant is orienting the attached patio cover to face the street without adjacent property owners." **Mr. Oroian** seconded the motion.

Mr. Neff made a motion to eliminate item # 1) a 4'11" variance from the 5' side setback, as described in Section 35-310.01, to allow an attached patio cover to be 1" from the side property line, a voice vote was taken and passed 10-1. Ms. Rogers voted in opposition.

Mr. Kuderer then called for the roll call vote on item #2) a 4.5' variance from the 20' rear yard setback to allow an attached patio cover to have a 15.5' rear setback

AYES: Martinez, Oroian, Neff, Polendo, Cruz, Dr. Zottarelli, Trevino, Rodriguez, Teel, Kuderer

NAYS: Rogers

VARIANCE IS GRANTED

Case Number: A-18-137
Applicant: Edward Juarez
Owner: Silverbrook Association, Inc.
Council District: 7
Location: 9798 Silverbrook Place
Legal Description: Lot P-100, Block 30, NCB 15664
Zoning: "PUD R-4" Planned Unit Development Residential Single-Family
District
Case Manager: Debora Gonzalez, Senior Planner

Request

A request for 1) a 19 square foot variance from the maximum 36 square foot sign area, as described in Chapter 28, Section 28-45, to allow a sign to be 55 square feet in size and 2) a 6' variance from the maximum 8' height limitation, as described in Chapter 28, Section 45, to allow a sign to be 14 feet tall and 3) a 14' variance from the 15' sign setback, as described in Chapter 28, Section 45, to allow a sign to be 1' from the side property line.

Dominic Silva, Planner presented the background information and staff's recommendation of the variance. He indicated 27 notices were mailed, 0 returned in favor, and 2 returned in opposition no neighborhood association.

Edward Juarez, 10303 Fair Long Trail, representative gave brief history of his work. He also stated the new sign will be smaller but taller than the original to protect it from graffiti and gave examples.

Arturo Silva, Senior Sign Inspector, explained what the code allows and stated this request is well within the code.

The following citizens appeared to speak.

Joe Acosta, 9510 Shadow Brook, spoke in favor.

John Herwick, 1026 Passion Elm, 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-18-137 closed.

Mr. Rodriguez made a motion. "Regarding Appeal No A-18-137, a request for 1) a 19 square foot variance from the maximum 36 square foot sign area to allow a sign to be 55 square feet in size and 2) a 6' variance from the maximum 8' height limitation to allow a sign to be 14 feet tall and 3) a 14' variance from the 15' sign setback to allow a sign to be 1' from the side property line, situated at 9798 Silverbrook Place, applicant being Edward Juarez..

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 applicant intends to replace existing sign with and an electric message board 55 square feet in area, 14' feet tall and 1' from the side property line. This size is needed to announce news, events, emergencies and weather awareness.

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 request is not out of character with the neighborhood. The requested area, height, and setback are unlikely to harm any residential property as the sign is to be located along the neighborhood collector street, and is more than 80 feet from the nearest home.

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

The proposed variance will not have an adverse impact on neighboring properties as the sign will be surrounded by a park and on the main street of this community.

- 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. The requested square footage provides reasonable limits on signage to help preserve and maintain neighborhoods. Further, the request 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." Mr. Teel seconded the motion.

AYES: Rodriguez, Rogers, Oroian, Martinez, Neff, Cruz, Teel, Polendo, Trevino, Dr. Zottarelli, Kuderer
NAYS: None

THE VARIANCE IS GRANTED



Case Number: A-18-135
Applicant: Alejandra Vazquez
Owner: Alejandra Vazquez
Council District: 1
Location: 5138 Blanco Road
Legal: Lot 31, NCB 11693
Description:
Zoning: "C-2 AHOD" Commercial Airport Hazard Overlay District
Case Manager: Dominic Silva, Planner

Request

A request for 1) to waive the minimum 12 month waiting period, as described in Section 35-480 (f) and 2) a parking adjustment, as described in Section 35-526, to decrease the minimum parking from 33 parking spaces to 18 parking spaces.

Dominic Siva, Planner presented the background information and staff's recommendation of the variance. He indicated 13 notices were mailed, 0 returned in favor, and 0 returned in opposition with no response from the North Shearer Hills Neighborhood Association.

Mr. Martinez made a motion. "Regarding Appeal No A-18-135, a request for 1) to waive the minimum 12 month waiting period situated at 5138 Blanco Road, applicant being Alejandra Vazquez. **Dr. Zottarelli** seconded the motion.

AYES: Rodriguez, Oroian, Cruz, Teel, Polendo, Dr. Zottarelli,
NAYS: Rogers, Martinez, Neff, Trevino, Kuderer

MOTION FAILED.

Mr. Neff made a motion to reconsider case A-18-135. **Mr. Rodriguez** seconded the motion. A voice vote was taken and passed unanimously.

Steven Gonzalez, 5138 Blanco Rd, applicant stated they worked with staff on the project to increase parking and maximize its uses. The business will only be open for Breakfast and lunch.

No citizens appeared to speak.

Mr. Neff made a motion. "Regarding Appeal No A-18-135, a request for 1) to waive the minimum 12 month waiting period situated at 5138 Blanco Road, applicant being Alejandra Vazquez. **Mr. Rodriguez** seconded the motion.

AYES: Neff, Rodriguez, Oroian, Cruz, Teel, Polendo, Rogers, Dr. Zottarelli, Trevino, Kuderer
NAYS: Martinez

MOTION GRANTED.

Dr. Zottarelli made a motion. “Regarding Appeal No A-18-135, a request for 2) a parking adjustment to decrease the minimum parking from 33 parking spaces to **22** parking spaces, situated at 5138 Blanco Road, applicant being Alejandra Vazquez.

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:

The proposed parking adjustment for a restaurant will serve the public well by decreasing unnecessary parking onsite and increasing useable interior space for storage and kitchen use.” Mr. Rodriguez seconded the motion.

AYES: Dr. Zottarelli, Rodriguez, Oroian, Rogers, Neff, Cruz, Polendo, Teel, Trevino, Kuderer

NAYS: Martinez

THE VARIANCE IS GRANTED

The Board of Adjustment convened for a break at 2:42pm and returned at 2:55pm

Case Number: A-18-141
Applicant: Elbert Fuqua
Owner: Elbert Fuqua
Council District: 2
Location: 1836, 1838, and 1840 East Crockett Street
Legal Description: Lots 18-20, Block 1, NCB 6329

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

Case Manager: Debora Gonzalez, Senior Planner

Request

A request for up to a 9” variance from the required 5’ side setback, as described in Section 35-310.01, to allow a structure to be built as close as 4’3” away from the 5’ side property line.

Dominic Silva, Planner, presented background, and staff’s recommendation of the variance requests. He indicated 35 notices were mailed, 0 returned in favor, and 0 returned in opposition and no response from the Jefferson Heights Neighborhood Association.

Elbert Fuqua, applicant, 2410 W. Commerce, stated they were made aware a variance was needed during construction. In order to sell the properties the this variance was necessary.

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-18-141 closed.

Mr. Neff made a motion. “Regarding Appeal No A-18-141, a request for up to a 9” variance from the required 5’ side setback to allow a structure to be built as close as 4’3” away from the 5’ side property line, situated at 1836, 1838, and 1840 East Crockett Street, applicant being Elbert Fuqua.

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 minimum setbacks that help to establish uniform and safe development within the City of San Antonio. The proposed structures meet front and rear setback requirements. Allowing the structures to be 4’3” from the side property line will leave room for maintenance, and provides ample space for rainwater runoff and fire rating concerns.

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 not being able to build the 3 structures as proposed.

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. In this case, the intent of the setback is to allow room for maintenance and to provide safe separation. A 4’3” side setback would satisfy this intent. The spirit of the ordinance is further observed in that the structures meet all front and rear setbacks.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized. The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the “R-4 AHOD” Residential Single-Family Airport Hazard Overlay District.*

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

There are several properties within the community that benefit from reduced side setbacks. The request would not be 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 applicant will have to remove poured slab to meet the 5’ side setback. The plight of the owner is not merely financial in nature; rather, it resulted from incorrect information on the Bexar County Appraisal District website.” Mr. Martinez seconded the motion.

AYES: Neff, Martinez, Rodriguez, Rogers, Cruz, Trevino, Dr. Zottarelli, Teel, Polendo, Oroian, Kuderer

NAYS: None

THE VARIANCE IS GRANTED

Case Number:	A-18-134
Applicant:	Oscar Mendoza
Owner:	Oscar Mendoza
Council District:	5
Location:	202 Pendleton Avenue
Legal Description:	The North 83 feet of Lots 302-304, NCB 6184
Zoning:	“MF-33 AHOD” Multi-Family Airport Hazard Overlay District
Case Manager:	Debora Gonzalez, Senior Planner

Request

A request for 1) a 1,925 square foot variance from the minimum 4,000 square foot lot size, as described in section 35-310.01, to allow a lot size to be 2,075 square feet, and 2) for a 10’ variance from the 20’ rear setback, as described in section 35-310.01, to allow a home to be 10’ from the rear property line.

Dominic Silva, Planner, presented background, and staff’s recommendation of the variance requests. He indicated 35 notices were mailed, 0 returned in favor, and 1 returned in opposition no response from the Collins Gardens Neighborhood association.

Oscar Mendoza, 202 Pendleton, applicant, is requesting the variance to complete the process to build on this property which would have parking for each.

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-18-134 closed.

Ms. Cruz made a motion. “Regarding Appeal No A-18-134, a request for 1) a 1,925 square foot variance from the minimum 4,000 square foot lot size to allow a lot size to be 2,075 square feet, and 2) for a 10’ variance from the 20’ rear setback to allow a home to be 10’ from the rear property line, situated at 202 Pendleton Avenue, applicant being Oscar Mendoza.

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 minimum lot sizes that provide for consistent development within the neighborhood. The “MF-33” Multi-Family District is intended for dwelling density uses of 33 units per acre. The setback reduction will provide room for maintenance without trespass and accessibility to light air and open space. The proposed project of detached single-family dwelling meets the intentions of the zoning district and is not contrary to the public interest.

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

The literal enforcement of the ordinance would not allow the owner of the property to develop the lot as intended. The subject property cannot be expanded as the surrounding lots are already developed. The property is currently vacant and not platted and the property owner is trying to secure a plat exception to allow for the development of the lot. A variance to the lot size is required to complete this process.

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

Granting the request will result in substantial justice, because the proposed development of detached single-family dwellings advances the efforts of the zoning designation. The variance will promote infill development on this lot.

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 in the “MF-33 AHOD” Multi-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 surrounding single-family dwellings will not be injured by granting the variance, because the lot size will not create incompatible development, nor will it detract from

the character of the community. The character of the surrounding neighborhood will not be altered and the proposed development will be cohesive with the existing pattern of development within the neighborhood.

- 6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, 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 condition present is that the lot has never been platted and in order to construct on the property there must be a plat exception approved. A plat exception cannot be approved unless a variance is granted to allow for a smaller lot size to develop single-family dwelling units.” Mr. Martinez seconded the motion.

**AYES: Cruz, Martinez, Rodriguez, Polendo, Teel, Rogers, Neff, Trevino, Dr. Zottarelli, Kuderer
NAYS: Oroian**

THE VARIANCE IS GRANTED

Case Number:	A-18-136
Applicant:	Fernando Morales
Owner:	James Duerr and Pamela Duerr
Council District:	1
Location:	407 Cedar Street
Legal	Lot 2, Block 3, NCB 2968
Description:	
Zoning:	“RM-4 H AHOD” Residential Mixed King William Historic Airport Hazard Overlay District
Case Manager:	Dominic Silva, Planner

Request

A request for 1) a 4’ variance from the required 5’ rear setback, as described in Section 35-370, to allow a detached garage to be 1’ away from the rear property line and 2) a 2’ variance from the 5’ side setback requirement, also described in Section 35-370, to allow a detached garage to be 3’ from the side property line.

Dominic Silva, Planner, presented background, and staff’s recommendation of the variance requests. He indicated 28 notices were mailed, 1 returned in favor, and 0 returned in opposition and no response from the King William Neighborhood Association.

Frank Morales, 215 Groveton, representative stated the HDRC approved the new garage and feels this is a reasonable request. The original garage is unusable.

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-18-136 closed.

Dr. Zottarelli made a motion. "Regarding Appeal No A-18-136, a request for 1) a 4' variance from the required 5' rear setback to allow a detached garage to be 1' away from the rear property line and 2) a 2' variance from the 5' side setback requirement to allow a detached garage to be 3' from the side property line, situated at 407 Cedar Street, applicant being Fernando Morales.

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 reconstruction of the garage is not contrary to public interest as it does not negatively impact any surrounding properties or the general public. The garage is bounded by thick foliage and mature bamboo trees and is located within the rear of the property out of sight from passersby. Further, the detached garage has been in place since 1975 with no complaints.

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

As the structure was built in 1975, the structure has dilapidated considerably and sits unusable. The applicant intends to reconstruct the garage within the same footprint and will follow all Historic Design Review Commission stipulations.

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 proposed garage reconstruction is not overwhelming in size compared to the principal structure and will follow the same footprint as the previous garage built in 1975.

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 "RM-4 H AHOD" Residential Mixed King William Historic Airport Hazard Overlay.

- 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 rehabilitated historic structures, thus the proposed reconstruction of the current garage will not injure the appropriate use of adjacent conforming properties or alter the 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 the age of the structure and the dilapidated condition it currently sits. Having been built in 1975, the reconstruction of the detached garage will follow the character of the district and overall enhance the property and fabric of the Historic neighborhood.” Mr. Teel seconded the motion.

AYES: Dr. Zottarelli, Teel, Neff, Rodriguez, Rogers, Cruz, Martinez, Oroian, Polendo Trevino, Kuderer

NAYS: None

THE VARIANCE IS GRANTED



Case Number: A-18-124
 Applicant: Jaime Carrillo
 Owner: Jaime Carrillo
 Council District: 1
 Location: 1342 West Lullwood Avenue
 Legal Description: Lot 2, Block 77, NCB 2772
 Zoning: “R-4 AHOD” Residential Single-Family Airport Hazard Overlay District
 Case Manager: Debora Gonzalez, Senior Planner

Request

A request for a 4’11’ variance from the 5’ side setback, as described in Section 35-370, to allow a carport to be 1” from side property line.

Dominic Silva, Planner, presented background, and staff’s recommendation of the variance requests. He indicated 36 notices were mailed, 3 returned in favor, and 0 returned in opposition and no response from the Keystone Neighborhood Association.

Jaime Carrillo Alvarado, 1342 Lullwood Avenue, requested interpreter services, stated he built the carport for safety, his children and protection from the weather.

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-18-124 closed.

Mr. Oroian made a motion. "Regarding Appeal No A-18-124, a request a 4'11' variance from the 5' side setback to allow a carport to be 1" from side property line, situated at 1342 West Lullwood Avenue, applicant being Jaime Carrillo.

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 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.*

Literal enforcement of the ordinance would require that the applicant removes the carport that infringes into the side setback 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. The intent of the setback limitation is to prevent fire spread, allow adequate space for maintenance, and encourage proper storm water drainage. 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 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 Board finds that the carport, as designed, does not harm adjacent property owners and does not 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 plight of the owner is due to the size of lot and location of the driveway, which leaves inadequate room for a carport of any substantial size.” Mr. Rodriguez seconded the motion.

AYES: Rodriguez, Cruz

NAYS: Martinez, Oroian, Neff, Polendo, Trevino, Teel, Rogers, Dr. Zottarelli, Kuderer

THE VARIANCE FAILED

Case Number:	A-18-139
Applicant:	Russell Felan
Owner:	Village Oaks Apartments House
Council District:	10
Location:	8011 North New Braunfels
Legal Description:	Lot 74, NCB 11889
Zoning:	”MF-33 AHOD” Multi-Family Airport Hazard Overlay District
Case Manager:	Dominic Silva, Planner

Request

A request for 1) a 4’11” variance from the required 5’ side setback, as described in Section 35-370, to allow a carport to be 1” from the front property line and 2) a 3’ variance from the 5’ rear setback, also described in Section 35-370, to allow a carport to be 2’ away from the rear property line.

Dominic Silva, Planner, presented background, and staff’s recommendation of the variance requests. He indicated 23 notices were mailed, 1 returned in favor, and 3 returned in opposition no response from the Oak Park – Northwood Neighborhood Association.

Russell Felan, 8011 N. New Braunfels, applicant stated the original carport was destroyed by a tornado and the applicant installed a new carport not knowing he needed a variance. He also stated the water runoff has been addressed.

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-18-139 closed.

Mr. Martinez made a motion. “Regarding Appeal No A-18-139, a request for 1) a 4’11” variance from the required 5’ side setback, as described in Section 35-370, to allow a carport to be 1” from the front property line and 2) a 3’ variance from the 5’ rear setback, also described in

Section 35-370, to allow a carport to be 2' away from the rear property line, situated at 8011 North New Braunfels, applicant being Russell Felan.

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 variance is not contrary to the public interest. The original carport has been in the same location since 1968 with no registered complaints and the new carport is within the original footprint.

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

The new carport is built within the same footprint as the original carport that was damaged beyond repair due to inclement weather in February of 2017. Literal enforcement of the ordinance would result in the applicant removing that portion of the carport that extends beyond the side and rear setback, leaving the carport unusable in its current format due to space limitations.

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 new carport is not overwhelming in size and follows the same footprint as the original carport that was built in 1968 with no registered complaints. Additionally, the carport is built entirely of metal.

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 in the "MF-33 AHOD" Multi-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 is not noticeably out of character within the district in which it is located. The previous carport has been in place for over 50 years with no complaints. The district is characterized by commercial and multi-family establishments. The variances

requested will not substantially injure the appropriate uses of adjacent conforming properties or alter the 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 variances being sought is due the reconstruction of a carport that was destroyed during the February tornado strikes of 2017. The unique circumstances were not created by the owner and are not merely financial in nature.” Mr. Rodriguez seconded the motion.

AYES: Martinez, Rodriguez, Oroian, Neff, Polendo, Trevino, Teel, Rogers, Cruz, Dr. Zottarelli, Kuderer
NAYS: None

THE VARIANCE IS GRANTED



Case Number: A-18-138
 Applicant: Raul Navarajo Jr.
 Owner: Raul Navarajo Jr.
 Council District: 1
 Location: 2407 Lee Hall Street
 Legal Description: Lots 20-21, Block 24, NCB 8443
 Zoning: “R-4 AHOD” Residential Single-Family Airport Hazard Overlay District
 Case Manager: Dominic Silva, Planner

Request

A request for a 4’10” variance from the required 5’ side setback, as described in Section 35-310.01, to allow a carport to be 2” from the side property line.

Dominic Silva, Planner, presented background, and staff’s recommendation of the variance requests. He indicated 33 notices were mailed, 1 returned in favor, and 0 returned in opposition and response from the Los Angeles Height Neighborhood Association.

Raul Navarajo Jr, 2407 Lee Hall St, applicant apologized for building without a permit. Once he received the citation he stopped work. Mr. Navarajo stated he would modify the structure to conform to the code.

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-18-138 closed.

Mr. Zottarelli made a motion. “Regarding Appeal No A-18-138, a request for a 4’ 10” variance from the required 5’ side setback, as described in Section 35-310.01, to allow a carport to be 2” from the side property line, situated at 2407 Lee Hall Street, applicant being Raul Navarajo Jr.

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 variance is not contrary to the public interest as storm water controls have been properly utilized. Further, the design of the carport matches the character of the district in which it is located.

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 owner removing the completed carport from the side 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, 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 the code have been met.

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 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 Board finds that the carport, as built, does not detract from the essential character of the district and does not substantially injure the appropriate 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 of the property is due to the limited developable space within the front and side property. This is not merely financial in nature.” Mr. Martinez seconded the motion.

AYES: Dr. Zottarelli, Martinez, Teel, Oroian, Neff, Polendo, Trevino, Rodriguez, Rogers, Cruz, Kuderer

NAYS: None

THE VARIANCE IS GRANTED

Mr. Rodriguez left the Board of Adjustment meeting at 4:15pm.

Mr. Kuderer asked for consideration of the July 2, 2018 minutes. Mr. Neff asked that the minutes be corrected to reflect his vote. Mr. Kuderer asked for a motion approving the minutes as written but noting Mr. Neff’s statement of his request that the vote accurately reflect his position in today’s consideration of the July 2, 2018 minutes. .

Mr. Kuderer asked for a roll call vote on the July 2, 2018 minutes as written noting Mr. Neff’s statement of the vote.

AYES: Dr. Zottarelli, Martinez, Teel, Oroian, Rogers, Cruz, Kuderer

NAYS: Neff

MOTION IS APPROVED BY MAJORITY

Mr. Kuderer asked for a roll call vote on the August 6, 2018 minutes with Mr. Neff’s correction that he requested clarification of the vote.

AYES: Dr. Zottarelli, Martinez, Neff, Teel, Oroian, Rogers, Cruz, Kuderer

NAYS: None

MOTION IS APPROVED BY MAJORITY

Manager’s Report: None

There being no further discussion, meeting adjourned at 4:25 p.m.

APPROVED BY:  OR _____
Chairman Vice-Chair

DATE: 9/17/18

ATTESTED BY:  DATE: 9/18/18
Executive Secretary