

**BOARD OF ADJUSTMENT  
OFFICIAL MINUTES  
September 17, 2018**

Members Present: Dr. Zottarelli  
Alan Neff  
Denise Ojeda  
George Britton Jr.  
Maria Cruz  
Seth Teel  
Mary Rogers  
Donald Oroian  
John Kuderer  
Roger Martinez  
Henry Rodriguez  
Kimberly Bragman  
Roy F. Schauffele

Staff:  
Catherine Hernandez, DSD Administrator  
Joseph Harney, City Attorney  
Logan Sparrow, Interim DSD Manager  
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Case #A-18-142 was withdrawn.

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Case Number: A-18-171  
Applicant: Robert and Carmen Puente  
Owner: Robert and Carmen Puente  
Council District: 8  
Location: 8138 Donore Place  
Legal Description:  
Lot NW 280 feet of Lot 18, NCB 11623  
Zoning: "R-5 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 35-514, to allow an 8' tall solid screen fence in the front yard.

Debora Gonzalez, Senior Planner presented the background information and staff's recommendation of the variance. She indicated 14 notices were mailed, 0 returned in favor, and 0 returned in opposition and no registered neighborhood association.

Robert and Carmen Puente, 8138 Donore Place, stated they purchased the home a year ago with the intention of changing the fence. They have spoken with their neighbors and believe the style is in keeping with the neighborhood and requested approval.

## 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-18-171 closed.

**Mr. Martinez** made a motion. "Regarding Appeal No A-18-171, a request for a special exception to allow an 8' tall solid screen fence in the front yard, situated at 8138 Donore Place, applicant being Robert and Carmen Puente.

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 of the chapter is intended to provide for reasonable protections to property owners and to establish a sense of community within our neighborhoods. The request for an 8' tall fence in the front yard is in harmony with the spirit of the chapter. No portion of the fence is in violation of the Clear Vision field.**
- B. *The public welfare and convenience will be substantially served.*  
**The public welfare and convenience can be served by the added privacy of higher fencing, allowing the owner to create a private environment in the subject property.**
- C. *The neighboring property will not be substantially injured by such proposed use.*  
**No portion of the fence is in violation of the Clear Vision field. No adjacent property owner, nor the traveling public, will be harmed by the proposed fence.**
- 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 front yard fence will create a private environment for the subject property and is highly unlikely to injure adjacent properties.**

*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 “R-5 AHOD” Residential Single-Family Airport Hazard Overlay District and permits the current use of a single-family home. Therefore, the requested special exception will not weaken the general purpose of the district.” Mr. Neff seconded the motion.**

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

**NAYS: None**

### **SPECIAL EXCEPTION IS GRANTED**

Case Number:	A-18-133
Applicant:	Hyoson Albert
Owner:	Hyoson Albert
Council District:	2
Location:	922 N. Pine Street
Legal Description:	Lot 3, Block A, NCB 1653
Zoning:	“R-5 H AHOD” Residential Single-Family Dignowity Hill Historic Airport Hazard Overlay District
Case Manager:	Dominic Silva, 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.

Dominic Silva, Planner presented the background information and staff’s recommendation of the variance. He indicated 32 notices were mailed, 1 returned in favor, and 0 returned in opposition and no response from the Dignowity Hill Neighborhood Association.

Hyoson Albert, 922 N. Pine, requested the renewal of her special exception. She gave a brief report on the success of her business.

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

Karen Hobson 815 Burnett St., spoke in favor.

Liz Franklin, 515 Hays St., 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-18-133 closed.



**Mr. Neff** made a motion. “Regarding Appeal No A-18-133, a request for a special exception to allow a renewal of a one-operator beauty/barber shop within a home Monday – Friday 9am to 6pm with a four year term, situated at 922 N. Pine Street, applicant being Hyoson Albert.

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 requested special exception will be in harmony with the spirit and purpose of the chapter in that the proposed one-operator beauty salon will follow the specified criteria established in Section 35-399.01 in the Unified Development Code.**

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

**The public welfare and convenience will be served with the granting of this request as it will provide a valuable and needed public service to the residents of the neighborhood and it will not negatively impact surrounding properties.**

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

**The subject property will be primarily used as a single-family residence. 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. As such, neighboring properties will not be substantially injured.**

*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 will not alter the essential character of the district as the use will likely be indiscernible to passersby.**

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

**The purpose of the zoning district is to promote the public health, safety, morals, and general welfare of the city. The granting of this special exception will not weaken these purposes, nor will it weaken the regulations established for this district.” Mr. Rodriguez seconded the motion.**

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

**THE VARIANCE IS GRANTED**

Case Number: A-18-167  
Applicant: Stream Realty Acquisition, LLC  
Owner: North Alamo Properties, LLC  
Council District: 2  
Location: 2100 Broadway Street  
Legal Description: All of Lots 1-4, 7-12, P-100 through P-106  
Zoning: "C-2 DN RIO-1 UC-2 NCD-9 AHOD" General Commercial Development Node River Improvement Urban Corridor Westfort Alliance Neighborhood Conservation District Airport Hazard Overlay District and "IDZ DN RIO-1 UC-2 NCD-9 AHOD" Infill Development Zone Development Node River Improvement Urban Corridor Westfort Alliance Neighborhood Conservation District Airport Hazard Overlay District with uses permitted for Multi-Family Dwellings up to 175 units per acre.  
Case Manager: Debora Gonzalez, Senior Planner

**Request**

A request for 1) a 3.5' story variance and an 59' variance from the RIO-1, and Development Node regulations to allow for a structure to be 10 stories and 149 feet in height, as described in Section 35-674.01(c)(4), Table 674-2.

Debora Gonzalez, Senior Planner presented the background information and staff's recommendation of the variance. She indicated 22 notices were mailed, 4 returned in favor, and 0 returned in opposition with Westfort Alliance Hills Neighborhood Association and Government Hill Alliance in favor.

James Griffin, 112 East Pecan, representative, gave a short briefing on the project. He explained the uses for the property and stated parking will be provided.

Mr. Teel made a motion. "Regarding Appeal No A-18-167, a request for 1) a 3.5' story variance and an 59' variance from the RIO-1 and Development Node regulations to allow for a structure to be 10 stories and 149 feet in height, situated at 2100 Broadway Street, applicant being Stream Realty Acquisition, LLC.

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 height limitations to ensure that future development is compatible within the context that it is placed. The Board finds that permitting the requested height is warranted and 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 of the ordinance would limit the structure to 7.5 stories at a total of 90 feet in height. The project, as an infill development, presents challenges in its design configuration as it encompasses most of the block; there is no harm to the abutting property. Within the urban core, space is a premium; increased height is a reasonable alternative.**

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

**The applicant is not seeking variance to the required design aspects listed in the code, only seeking the additional height. The proposed project is compatible with surrounding development, particularly with several nearby high-rise development and existing neighborhoods in use and character. The Board finds that the request for additional height observes the spirit of the ordinance.**

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

**The requested variance will not permit a use not authorized within the “C-2 DN RIO-1 UC-2 NCD-9 AHOD” General Commercial Development Node River Improvement Overlay Urban Corridor Westfort Alliance Neighborhood Conservation District Airport Hazard Overlay District and “IDZ DN RIO-1 UC-2 NCD-9 AHOD” Infill Development Zone Development Node River Improvement Overlay Urban Corridor Westfort Alliance Neighborhood Conservation District Airport Hazard Overlay District with uses permitted for Multi-Family Dwellings up to 175 units per acre.**

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

**The proposed project is compatible with surrounding development. Nearby uses will be buffered by the street right-of-way and the project sits at an intersection. The applicant is not seeking any other variances.**

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 present in this case is the scale of proposed development. Because most of the block is included within the project area, staff finds that the request for additional height is warranted.” Mr. Oroian seconded the motion.**

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

**NAYS: None**

### **THE VARIANCE IS GRANTED**

**The Board of Adjustment recessed for a break at 2:05pm and reconvened the meeting at 2:17pm**

Case Number:	A-18-131
Applicant:	Tania Cortazar
Owner:	Tania Cortazar
Council District:	3
Location:	302 Golden Crown Drive
Legal Description:	Lot 1, Block 4, NCB 10500
Zoning:	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District
Case Manager:	Debora Gonzalez, Senior Planner

### **Request**

A request for a 32% variance from the 50% front yard impervious cover limitation, as described in Section 35-515 (d)(1), to allow 82% of the front yard to be covered in impervious cover.

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

Tania Cortazar, applicant, 302 Golden Crown Drive, stated she purchased the home a year ago with it paved 50%. Ms. Cortazar took the advice of a foundation company to help prevent water from entering her home by adding a retaining wall. She stated she did what was necessary to protect her property.

The following citizens appeared to speak.

Liz Trainer, 375 Gayle Avenue, spoke in opposition.

Gene Mark, 5018 Kenton View, spoke in opposition.



Alex Pacheco, 2621 Minnetonka, spoke in opposition.

Tommy Adkinson, 128 Golden Crown, 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-18-131 closed.

Ms. Ojeda made a motion. "Regarding Appeal No A-18-131, a request for a 32% variance from the 50% front yard impervious cover limitation to allow 82% of the front yard to be covered in impervious cover, situated at 302 Golden Crown Drive, applicant being Tania Cortazar.

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 impervious coverage limitation preserves storm water management by reducing runoff and increasing storm water travel times. The subject property allows the water to drain into the open green area located within the property. The variance request would not be contrary to the public interest.**

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

**Literal enforcement would require the owner to remove about 32% of concrete in the front yard.**

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 impervious coverage limitation requirements is to prevent water flooding and to preserve the character of the community.**

4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the district in which the request for a variance 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 impervious coverage mitigates the amount of storm water retained on-site. Therefore, the requested variance will not injure adjacent property owners.**

6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the*



*owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.*

**The unique circumstance in this case is that the requested variance still mitigates water issues with the impervious coverage exceeding the 50% limitation.” Mr. Teel seconded the motion.**

**AYES: Neff, Rodriguez, Cruz, Ojeda,**

**NAYS: Teel, Dr. Zottarelli, Britton, Rogers, Martinez, Oroian, Kuderer**

## **THE VARIANCE FAILED**

**The Board of Adjustment recessed for a break at 3:20pm and reconvened the meeting at 3:30pm. Ms. Ojeda Left the Meeting at 3:20pm and was replaced by Ms. Bragman.**

Case Number:	A-18-156
Applicant:	Mission DG, Ltd.
Owner:	Four Oaks Tower, Ltd.
Council District:	8
Location:	11327 Expo Boulevard
Legal Description:	Lot 16, Block 1, NCB 15017
Zoning:	“MF-50” Multi-Family District
Case Manager:	Dominic Silva, Planner

### **Request**

A request for a 3’2” variance from the 10’ rear setback requirement, as described in Section 35-310.01, to allow the structure to be 6’10” away from the rear property line.

Dominic Silva, Planner, presented background, and staff’s recommendation of the variance requests. He indicated 8 notices were mailed, 1 returned in favor, and 1 returned in opposition no response from the Vance Jackson Neighborhood Association.

Krystin Ramirez, 100 West Houston, representative, is requesting the variance in order to move forward with the project. She stated modifying the plans hinder the project. This property has been vacant and feels this will be great for the city.

### **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-18-156 closed.

**Mr. Oroian** made a motion. “Regarding Appeal No A-18-156, a request for a 3’2” variance from the 10’ rear setback requirement to allow the structure to be 6’10” away from the rear property line, situated at 11327 Expo Boulevard, applicant being Mission DG, Ltd.

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, given that no exterior modifications or expansion will be done and the current zoning allows up to 101 residential units, granting the variance will not be 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 prohibiting interior renovations and allowing greater use of the applicant's zoning. The property was constructed in 2004 and no exterior renovations to the building will be done once permitting begins.**

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. The building was built in 2004 with no registered complaints. The lot adjacent to the property is a parking lot for an auto dealership.**

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

**The requested variance will not permit a use not authorized within the "MF-50" Multi-Family District.**

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

**The building has been in place since 2004. The character of the district is mixed uses of commercial and residential. 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 building, built in 2004, applied for and completed all necessary permits and inspections in order to obtain their certificate of occupancy.” Mr. Martinez seconded the motion.**

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

### **THE VARIANCE IS GRANTED**

Case Number: A-18-150  
Applicant: Imagine Built Homes, LTD  
Owner: Imagine Built Homes, LTD  
Council District: 2  
Location: 329 Claremont Avenue  
Legal Description: Lot 44, 45, and the West 15 feet of Lot 46, Block 2, NCB 6780  
Zoning: “MF-33 NCD-6” Multi-Family Mahncke Park Neighborhood Conservation District  
Case Manager: Debora Gonzalez, Senior Planner

### **Request**

A request for a 2’ variance from the Mahncke Park Neighborhood Conservation District design requirement of a 10’ building separation to allow two structures to be 8’ apart.

Debora Gonzalez, Senior Planner, presented background, and staff’s recommendation of the variance requests. She indicated 30 notices were mailed, 5 returned in favor, and 1 returned in opposition and no response from the Mahncke Park Neighborhood Association.

John Friesenhaun, 11467 Huebner Road, representative gave a brief presentation of the issue created by a non-conforming structure which creates a hardship for the subject property. He stated they have spoken with the Neighbors and reached agreements regarding easements. He then asked for the Boards approval.

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

Charlotte Ann Lucas, 434 Funston Place, spoke in opposition and presented a video of the construction activities performed by Imagine Homes in the neighborhood.

Bill Waldrop, 424 Funston Place, yielded his time to Ms. Lucas.  
Lori Sherwood, 303 Eleanor, 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-18-150 closed.

Mr. Neff made a motion. "Regarding Appeal No A-18-150, a request for a 2' variance from the Mahncke Park Neighborhood Conservation District design requirement of a 10' building separation to allow two structures to be 8' apart, situated at 329 Claremont Avenue, applicant being Imagine Built Homes, LTD.

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 structure meets the 5' side property requirement. Staff finds the request is not contrary to the public interest in that the requested setback maintains what used to be prior to demolition and is similar to other setbacks within 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 result in the applicant not being able to build 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 5' side setback would satisfy this intent. The spirit of the ordinance is further observed in that the structure meets all other setbacks.**

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 "MF-33 NCD-6" Multi-Family Mahncke Park Neighborhood Conservation 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 plight of the owner for which the variance is sought is due to the previous location of the main building in relation to the adjacent property to the west.” Mr. Martinez seconded the motion.**

**AYES: Teel, Oroian, Britton, Bragman, Schauffele**

**NAYS: Dr. Zottarelli, Neff, Rodriguez, Rogers, Martinez, Kuderer**

## **THE VARIANCE FAILED**

Case Number:	A-18-166
Applicant:	RWJ Properties, LLC.
Owner:	RWJ Properties, LLC.
Council District:	2
Location:	10644 Interstate 35 North
Legal Description:	Lot 14 and the East 385.66 Ft of Lot A-6, NCB 13806
Zoning:	“I-1 IH-1 AHOD” General Industrial Northeast Gateway Corridor Overlay Airport Hazard Overlay District and “C-2 CD IH-1 AHOD” Commercial Northeast Gateway Corridor Overlay Airport Hazard Overlay District with Conditional Use for a Parking Lot
Case Manager:	Dominic Silva, Planner

### **Request**

A request for a 14.5’ variance from the 15’ Type B landscaped bufferyard along the south property line, described in Section 35-510, to allow a bufferyard to be 6” deep.

Dominic Silva, Planner, presented background, and staff’s recommendation of the variance requests. He indicated 19 notices were mailed, 0 returned in favor, and 0 returned in opposition and there is no registered neighborhood association.

James Griffin, 112 East Pecan, representative, gave a short briefing on the project and stated no chemicals will be stored and all drainage issues have been addressed. Landscaping will also be added to the property and wished to amend his request to 3 and 5 feet in different locations.

### **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-18-166 closed.

Mr. Neff made a motion. "Regarding Appeal No A-18-166, a request for a 14.5' variance from the 15' Type B landscaped bufferyard along the south property line to allow a bufferyard to be 3'-5' deep, situated at 10644 Interstate 35 North, applicant being RWJ Properties, LLC.

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 bufferyard requested is not contrary to the public interest as it does not negatively impact any surrounding properties or the general public. The bufferyard is located in the far back of the property and cannot be seen from any street right-of-way.**

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

**Literal enforcement would not allow the expansion of the parking lot as proposed due to the requirements of a 15' bufferyard. Altering the existing conditions to meet the required bufferyard would result in unnecessary hardship.**

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

**In this case, the proposed bufferyard will adhere to the spirit of the ordinance and substantial justice will be done by implementing a 6' bufferyard in order to enhance the eastern half of the property currently underutilized.**

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-1 IH-1 AHOD" General Industrial Northeast Gateway Corridor Overlay Airport Hazard Overlay District and "C-2 CD IH-1 AHOD" Commercial Northeast Gateway Corridor Overlay Airport Hazard Overlay District with Conditional Use for a Parking Lot.**

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 a 3'-5' deep bufferyard along the southern property line would not alter the essential character of the district as the area is largely situated behind industrial and commercial 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 for which the variance is sought is due to the renovation and expansion of a parking lot on the eastern half of the property. The existing electrical easements, ingress and egress, and required storm water drainage channels limits the amount of bufferyard without significantly altering conditions."** Mr. Martinez seconded the motion.

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

**NAYS: None**

## **THE VARIANCE IS GRANTED**

Case Number:	A-18-144
Applicant:	Thomas Bradley
Owner:	Thomas Bradley
Council District:	1
Location:	132 Joy Street
Legal Description:	Lots 5 through 15, Block 16, NCB 7335
Zoning:	"C-3 AHOD" General Commercial Airport Hazard Overlay District
Case Manager:	Dominic Silva, Planner

### **Request**

A request for 1) a 20' variance from the required 30' rear setback, as described in Section 35-310.01, to allow an addition to be 10' away from the rear property line and 2) a 5' variance from the 15' Type C landscape bufferyard requirement, as described in Section 35-510, to allow a 10' wide bufferyard.

Dominic Silva, Planner, presented background, and staff's recommendation of the variance requests. He indicated 30 notices were mailed, 0 returned in favor, and 1 returned in opposition there is no registered neighborhood association.

Thomas Bradley, 132 Joy Street, applicant stated he is proposing to expand his building in order to house his growing staff and asked for the Board of Adjustment approval.

**The following citizens appeared to speak.**

Faustino Milan, left before speaking.

Steve Trevino, 143 Zilla, 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-18-144 closed.

Dr. Zottarelli made a motion. "Regarding Appeal No A-18-144, a request for 1) a 20' variance from the required 30' rear setback to allow an addition to be 10' away from the rear property line and 2) a 5' variance from the 15' Type C landscape bufferyard requirement to allow a 10' bufferyard, situated at 132 Joy Street, applicant being Thomas Bradley.

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 10' bufferyard is not contrary to public interest as it does not negatively impact any surrounding properties or the general public. As of now, the property is surrounded by dense foliage and mature trees to the rear, so any new development, including the reduction of the setback to 10', will not have a negative impact on the surrounding residential properties.**

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

**Literal enforcement of the ordinances would result in unnecessary hardship by not allowing rear expansion of the landscaping design office due to the 107' width of the property and 30' rear setback. The existing metal storage structure located on the property prohibits westward expansion considerably, so any new development of the primary structure will need Board approval.**

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

**In this case, the proposed bufferyard and setback reduction to the rear of the property will adhere to the spirit of the ordinance and substantial justice will be done by implementing a 10' bufferyard and 10' rear setback in order to facilitate expansion of the landscaping office space.**



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-3 AHOD” General Commercial 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 introduction of a 10’ bufferyard and 10’ setback reduction is out of right-of-way sight and hidden from adjacent properties by way of mature trees and dense foliage. Such variances will not substantially injure the adjacent conforming properties or 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 for which the variance is sought is due to the location of the main building in relation to adjacent multi-family properties. A 30’ rear setback along with a 15’ bufferyard severely limits expansion of the applicant’s current building. This is not merely financial in nature.” Mr. Oroian seconded the motion.**

Mr. Oroian made a motion to reduce the bufferyard to the East 115 feet of the southern side of the property line. Dr. Zottarelli accepted the motion.

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

**NAYS: None**

## **THE VARIANCE IS GRANTED**

Case Number:	A-18-145
Applicant:	James Pool
Owner:	Jack Judson Estate, Joseph D. Judson-Executor
Council District:	10
Location:	1419 Austin Highway
Legal Description:	Lot 2, Block B, NCB 8695
Zoning:	“C-2 CD MC-3 AHOD” General Commercial Austin Highway/Harry Wurzbach Metropolitan Corridor Overlay Airport Hazard Overlay District with Conditional Use for Auto/Light Truck Repair
Case Manager:	Debora Gonzalez, Senior Planner

**Request**

A request for a 10' variance from the required maximum 40' front setback, as described in the Austin Highway/Harry Wurzbach Metropolitan Corridor Overlay District design requirements to allow a structure to be 50' away from the front property line.

Mr. Martinez made a motion to continue case #A-18-145 to the November 5, 2018. Ms. Rogers seconded the motion.

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

**NAYS: None**

**THE VARIANCE IS GRANTED**

**Mr. Teel left the meeting at 4:10pm**

Mr. Kuderer asked if there were any changes to the Board of Adjustment minutes for August 20, 2018. Hearing none he then asked for a roll call vote.

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

**NAYS: None**

**Abstained: Schaufele**

**THE MINUTES ARE PASSED.**

Manager's Report: None

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



OR

Vice-Chair

10/1/18

Executive Secretary

Executive Secretary

DATE:

10/9/18