

**BOARD OF ADJUSTMENT  
OFFICIAL MINUTES  
April 23, 2012**

Members Present:

Michael Gallagher  
Andrew Ozuna  
Edward Hardemon  
Helen Dutmer  
George Britton  
Jesse Zuniga  
Mike Villyard  
Gene Camargo  
Henry Rodriguez

Staff:

John Jacks, Assistant Director  
Andrew Spurgin, Planning Manager  
Matthew Taylor, Senior Planner  
Margaret Pahl, Senior Planner  
Trenton Robertson, Planner  
Tony Felts, Planner  
James Cramer, Intern  
Ernest Brown, Planner  
Paul Wendland, City Attorney

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**Call to Order**

Pledge of Allegiance to the U.S. and Texas Flags.

Mr. Gallagher, Chairman, called the meeting to order and called roll of the applicants for each case.

**Mr. Zuniga made a motion to move Case No. A-12-040 to the end of the agenda with all members voting in the affirmative.**

**Cases A-12-021, A-12-041, A-12-042, and A-12-043 were postponed until the next regularly scheduled meeting on May 14, 2012.**

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**CASE NO. A-12-033**

Applicant – Roque Salas  
Lot 49B, Block G, NCB 8393  
1059 Sutton Drive  
Zoned: “R-4 AHOD” Residential Single-Family Airport Hazard Overlay District

The applicant is requesting a Special Exception to erect a 6-foot Ornamental-Iron Front Yard Fence in the “R-4” Residential Single Family District.

Ernest Brown, Planner, presented background and staff’s recommendation approval of the variance request. She indicated 18 notices were mailed, one was returned in favor and none was returned in opposition and no response from the Donaldson Terrace Neighborhood Association.

Maria Salas, applicant, stated she is requesting this variance for safety. She also stated she this fence will provide security for her property.

**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-12-033 closed.

**MOTION**

A motion was made by **Mr. Rodriguez**. In Case A-12-033, applicant **Roque Salas**, location **1059 Sutton Drive**, legal description **Lot 49B, Block G, NCB 8393**, zoned **“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District**, to deny this it would be a **hardship to the applicant**. The special exception will be in harmony with the spirit and purpose of the chapter in that **the special exception will be in harmony with the spirit and purpose of Chapter 35, UDC**. The proposed fence will meet the height, width, design and all other requirements established in this section of the Unified Development Code. The public welfare and convenience will be substantially served in that **the public welfare and convenience will be substantially granted by allowing the applicant to securely protect their property**. The neighboring property will not be substantially injured by such proposed use in that **the neighboring properties will not be substantially injured by granting the special exception**. The design of the fence will not encroach on the neighboring properties or cause **any undo hardship**. 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 in that **by granting the applicant’s request for a special exception, the proposed fence and the encompassing property will maintain the harmony and character of the surrounding neighborhood**. There are various properties with front yard fences throughout the neighborhood. The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district in that **the requested special exception will not weaken the general purpose of the “R-4” Residential Single Family zoning district**. The fence, as proposed, will comply with the additional standards set forth in Section 35-399.04(a) of the UDC. The motion was seconded by **Ms. Dutmer**

**AYES: Rodriguez, Dutmer, Villyard, Hardemon, Zuniga, Britton, Ozuna, Camargo, Gallagher**

**NAY: None**

**THE VARIANCE WAS GRANTED.**

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**CASE NO. A-12-039**

Applicant – Thomas W Troll  
Lot P-1A, Block, NCB 17600  
1901 Encino Rio  
Zoned: “R-6 ERZD MLOD” Residential Single-Family Edwards Recharge Zone Military Lighting Overlay District

The applicant is requesting a 2-foot variance from the 6-foot maximum fence height standard in the rear yard, in order to allow an 8-foot tall fence in the rear yard.

Trenton Robertson, Planner, presented background and staff’s recommendation denial of the variance request. She indicated 18 notices were mailed, one was returned in favor and none was returned in opposition and no response from the Donaldson Terrace Neighborhood Association.

Thomas Troll, applicant, stated this was an existing 8-foot fence that was repaired due to deterioration. He also stated a contractor was hired to repair the fence. He further stated this fence will provide security to the property from trespassers on the pool and will be a noise barrier.

**The citizens appeared to speak:**

Debra Puig, citizen, spoke in favor.

Kathy Matulis, citizen, spoke in favor.

Brenda Weil, citizen, spoke in opposition.

Phillip Delgado, citizen, 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-12-039 closed.

**MOTION**

A motion was made by **Mr. Ozuna**. Re Appeal No. **A-12-039**, variance application for Thomas W Troll and the Encino Park HOA, property located at **Lot P-1A, NCB 17600**, situated at **1901 Encino Rio**, the applicant is requesting a **2-foot variance from the 6-foot maximum fence height standard in the rear yard, in order to allow an 8-foot tall fence in the rear yard**. The location of the variance is identified on the exhibit, so it’s only a specific segment that the applicant is requesting the variance for to be identified on the attached exhibit. I move that the Board of Adjustment grant the applicant’s request regarding Appeal No. **A-12-039**, application for a 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 such variance will not be contrary to the public interest in that **the requested fence height variance will not adversely impact the well-being of the general public as it will not obstruct visibility for impending traffic and it is merely replacing a condition precedent with the existing 8-foot fence that had been prior.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **a literal enforcement of the maximum fence height standard will require the applicant to maintain the height of 6-feet for the northwest 290-feet of fence line.** The subject property is not uniquely influenced by special conditions of the homeowners association trying to screen out the pool from the residences and also create an environment that would make it difficult to for any trespassers to gain access to the pool. The spirit of the ordinance is observed and substantial justice is done in that **the requested variance heights will be in keeping with the spirit of the ordinance as the proposed height merely replaces an existing condition that had been precedent set and the applicant is merely trying to improve the quality of the construction of the fence that had deteriorated over the past thirty years.** Swimming pools are permitted to have fence height as required under Section 35-514 of a minimum 6-foot height where there is no mandatory as to the variance. We can forward the applicant here in providing the 8-foot fence. Such 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 in that **the requested variance will not authorize the operation of a use on the subject property other than those uses specifically permitted in the "R-6" Single-Family Residence.** 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 in that **the requested fence height variance will not adversely impact the adjacent conforming properties.** The subject property is surrounded by single-family residences. The recreation area is designated for the benefit of those properties within the Encino Park HOA. The properties in the surrounding area will be able to continue their property for single-family residential. The requested variance will not substantially injure the appropriate use of the adjacent conforming properties. 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 in that **the requested variance is due to trespassing, vandalism and privacy attempts of the homeowners association to screen out the pool from the adjoining property owners.** These conditions are not a result of the general conditions of the zoning district or due to financial hardship. The circumstances are that that the homeowners association is merely trying to replace an existing condition that existed over thirty years for the property owners. The motion was seconded by Mr. Hardemon.

Mr. Rodriguez made a motion to continue this case until the June 4, 2012 Board of Adjustment meeting. Mr. Camargo seconded the motion with all members voting in the affirmative.

**AYES:** Camargo, Zuniga, Cruz, Rogers, Rodriguez, Villyard, Dutmer, Britton, Ozuna, Gallagher

**NAY:** None

**THE MOTION PASSES.**

**Board members recessed for 10 minutes.**

**CASE NO. A-12-040**

Applicant – Cesar Kela  
Lot 15, Block 6, NCB 11192  
210 Yuma Street  
Zoned: “RM-4 AHOD” Residential Mixed Airport Hazard Overlay District

The applicant is requesting a special exception to relocate a structure from 12939 SW Loop 410 to 210 Yuma Street

James A Cramer, Planner, presented background and staff’s recommendation of approval of the requested special exception. He indicated 19 notices were mailed, 6 were returned in favor and 0 were returned in opposition.

Edgar Dodson, representative, stated due to the driveway of the property the house has to be positioned a certain way. He also stated the house is 40-foot long and will not meeting the setbacks and allowing access to the rear of the property. He further stated there will be a driveway cut that will allow off-street parking and access to the rear of the property. The structure will be brought up to 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-12-040 closed.

**MOTION**

A motion was made by **Mr. Rodriguez**. Re Appeal No **A-12-040**, location **210 Yuma Street, Lot 15, Block 6, NCB 11192, “RM-4 AHOD” Residential Mixed Airport Hazard Overlay District**. The special exception will be in harmony with the spirit and purpose of the chapter in that **the granting of the special exception will be in harmony with the spirit and purpose of the chapter. The applicant is proposing to relocate a structure to a vacant lot and we do believe it infills.** The public welfare and convenience will be substantially served in that **the structure proposed to be relocated will be used as single family dwelling.** The neighboring property will not be substantially injured by such proposed use in that **the neighboring property will not be substantially injured by the proposed use as the neighborhood in general will be better served by the proposed use of the property as a single-family dwelling than by its**

**continued vacancy.** 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 in that **the structure is of a similar character as other structures within the district.** The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district in that **the special exception will not weaken the general purpose of "RM-4" zoning district to accommodate residential land uses.** The motion was seconded by Mr. Hardemon.

**AYES: Rodriguez, Hardemon, Zuniga, Britton, Camargo, Dutmer, Villyard, Ozuna, Gallagher**

**NAY: None**

**THE SPECIAL EXCPETION WAS GRANTED.**

Mr. Hardemon made a motion to reappoint Mr. Camargo as the Board of Adjustment representative to the Technical Advisory Committee. Mr. Rodriguez seconded the motion with all members voting in the affirmative.

**Approval of the April 2, 2012 Minutes**

**The April 2, 2012 minutes were approved with all members voting in the affirmative.**

**Approval of the April 16, 2012 Minutes**

**The April 16, 2012 minutes were approved with all members voting in the affirmative.**

There being no further discussion, meeting adjourned at 3:31 p.m.

APPROVED BY: Michael D. Gallagher OR \_\_\_\_\_  
Michael Gallagher, Chairman Andrew Ozuna, Vice-Chair

DATE: 5-14-12

ATTESTED BY: [Signature] DATE: 5/17/12  
Executive Secretary