

**BOARD OF ADJUSTMENT  
OFFICIAL MINUTES  
August 17, 2009**

Members Present:

Michael Gallagher  
Edward Hardemon  
Helen Dutmer  
George Britton  
Rolando Briones  
Mary Rogers  
Gene Camargo  
Maria Cruz  
Mimi Moffat  
Henry Rodriguez  
Narciso Cano

Staff:

Fernando De León, Assistant Director  
Rudy Niño, Jr., Senior Planner  
Jacob Floyd, Planner  
Michael Farber, Planner  
Paul Wendland City Attorney

**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.

**Ms. Rogers made a motion to postpone Case No A-09-081 to another date undetermined and fee to be paid by the applicant. Ms. Dutmer seconded the motion. Ms. Rogers made a motion to withdraw her motion. Ms. Dutmer seconded the motion.**

**CASE NO. A-09-072**

Applicant – Jim Poteet  
Lots 23 and 24, Block 6, NCB 747  
410 and 414 Madison Street  
Zoned: “H HS IDZ” Infill Development Zone King William Historic District Historic Significant with uses permitted in the “RM-4” Mixed Residential District

The applicant is requesting a 2-foot variance from the requirement that front yard solid fences not exceed 3 feet in height, in order to build a 5-foot tall solid fence in the front yards.

Jacob Floyd, Planner, presented background and staff’s recommendation of denial of the requested variance. He indicated 22 notices were mailed, 5 were returned in favor and one was returned in opposition and the King William Neighborhood Association was in opposition.

Jim Poteet, applicant, stated the reason for this variance is to screen the possessions of the residence. He also stated he also has approval from CPS to have the fence on the setback. He further stated

**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-09-072 closed.

**MOTION**

A motion was made by **Mr. Camargo**. I would like to move that in Case No **A-09-081**, the applicant being **Jim Poteet**, on property known as **Lots 23 and 24, Block 6, NCB 747**, subject property being known as **410 and 414 Madison Street**, be granted the requested variance as advertised. Such variance will not be contrary to the public interest in **of the 22 notices that were mailed to the surrounding property owners, five were returned in favor and one was returned in opposition which is located some two hundred feet to the north of the property in question**. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **it is in this member's opinion that in as much as the zoning on this current property would in fact allow the structures that are proposed, residential structures to be moved up to the point where this fence variance is being requested is allowed by the current regulations and thus no variance would be necessary from the board. In addition the applicant has pointed out that they have obtained approval from the appropriate utilities to construct this wall from within the easement that is shown on subdivision plat**. The spirit of the ordinance is observed and substantial justice is done in that **with certain modifications of laying out the structure on the subject property this wall which they are proposing would in fact be allowed without any such variance**. 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 property is zoned a mixed residential classification and the property is proposed to be used as such**. 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 **other property owners in the adjacent area enjoy the right by the existing zoning classification to erect structures or walls further into the front setback**. 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 **I don't believe that the requested variances has anything to do with financial situation but rather of the laying out and the architect or the applicant's opinion a proper layout to give the proposed zoning of these residences some open area that can be enjoyed by them**. The motion seconded by **Mr. Briones**.

**AYES: Camargo, Briones, Rodriguez, Hardemon, Cano, Dutmer, Britton, Gallagher**

**NAY: Cruz, Moffat, Rogers**

**THE VARIANCE WAS NOT GRANTED.**

**CASE NO. A-09-083**

Applicant – Madison Street Townhomes, L.P.

Lots 19 through 24, Block 6, NCB 747

210, 414, 418, 422, 426, and 430 Madison Street

Zoned: “H HS IDZ” Infill Development Zone King William Historic District Historic Significant with uses permitted in the “RM-4” Mixed Residential District

The applicant is requesting a complete variance from the requirement that a minimum 5-foot rear setback be maintained in “IDZ” zoning districts, in order to build structures on the rear property line.

Jacob Floyd, Planner, presented background and staff’s recommendation of approval of the requested variance. He indicated 34 notices were mailed, 10 were returned in favor and 1 was returned in opposition and no response from the King William Association board.

Steve Endo, applicant, stated they needed the minimum amount of square footage. Since this property backs up to a parking lot, it made sense to move this homes to the back of the property. He also stated there is a no build easement platted into the 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-09-083 closed.

**1<sup>st</sup> MOTION**

A motion was made by **Mr. Rodriguez**. I move that the Board of Adjustment grant the applicant’s request regarding Appeal No **A-09-072**, the owner is **Madison Townhomes LP**, it’s location is **410, 414, 418, 422, 426, and 430 Madison Street**, legal description **Lots 19 through 24, Block 6, NCB 747**, zoning is **“H HS IDZ” Infill Development Zone King William Historic District Historic Significant with uses permitted in the “RM-4” Mixed Residential District**. I move that the Board of Adjustment grant this variance for this application 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. According to Section 482(e) of the UDC, in order for a variance to be granted certain criteria has to be followed. The variance is not contrary to the public interest **it does not appear that the granted of these variance would be contrary to the public interest, as the intent of the “IDZ” zoning district is to encourage infill development and redevelopment.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **it does appear that the literal enforcement of the ordinance would result in unnecessary hardship, The shallowness of these lots and the presence of a 14-foot wide utility easement in the front yard of the lots create a unique situation limiting options for structure placement.** By granting the variance, the spirit of the ordinance will be observed and substantial

justice will be done in that **the granting of the variance would be in harmony with the purpose and intent of the "IDZ" zoning district and would allow the reasonable development of the subject lots.** Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located in that **the granting of this variance will not authorize a use other than those permitted by right in "RM-4" zoning districts, as specified by the Ordinance 99561 of the City of San Antonio.** 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 circumstances existing on the property are unique to the subject lots and are not due or the result of the general conditions in the district in which the property is located.** The depths of these lots are unique to the district and the utility easement in the front yard precludes the building of these proposed structures nearer to the front property line. According to staff, staff recommends that all these properties in question on Madison Street be approved because the criteria has been satisfied as presented above. The intent of the "IDZ" zoning district is to encourage and facilitate the development and reuse of underutilized or vacant parcels. The unique character of these lots presents a unique physical hardship in terms of the building area. Additionally, a 5-foot wide "no-build" easement was re-platted subsequent to the previously approved, and now expired, variance request. This will provide for the desired spacing between structures and allow access to the rear of the townhouses. The motion seconded by Ms. Rogers.

**AYES: Rodriguez, Rogers, Hardemon, Camargo, Dutmer, Moffat, Cano, Britton, Briones, Cruz, Gallagher**

**NAY: None**

**THE VARIANCE WAS GRANTED.**

**CASE NO. A-09-074**

Applicant – Mark R Johnson

Lot 77, Block 6, NCB 19219 and Lot P-3E & P-13B, NCB 19219

20080 Stone Oak Parkway

Zoned: "C-2 ERZD MLOD-1" Commercial Edwards Recharge Zone Camp Bullis Military Lighting Overlay District-1

The applicant is requesting a 16 parking space adjustment from the maximum allowed 155 parking spaces, to allow 171 parking spaces.

Michael Farber, Planner, presented background and staff's recommendation of approval of the requested variance. He indicated 58 notices were mailed, 1 was returned in favor and none were returned in opposition and the Stone Oak Property Owners Neighborhood Association is in favor.

Mark Johnson, representative, stated the reason for the parking adjustment is because the people that attend functions at the church have to park on the public street. He also stated the SAWS aquifer protection is in support of this parking adjustment and they helped to come out with 10% more of the allowable parking spaces.

**No citizens appeared to speak:**

Richard Acosta, citizen, spoke in favor.

Patricia Doria, 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-09-074 closed.

**MOTION**

A motion was made by **Ms. Rogers**. Re Appeal **A-09-074, parking adjustment application for the maximum parking limitation imposed due to the Edwards Recharge Zone District to allow for a total of 171 spaces**, subject property description is **Lot 77, Block 6, NCB 19219 and Lot P-3E & P-13B, NCB 19219**, applicant being **Mark R Johnson**, owner **The Church of Jesus Christ of Latter Day**. I move that the Board of Adjustment grant the applicant's request regarding subject application for a parking adjustment to the subject property as described previously, 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 a hardship. Specifically we find that a literal enforcement of the parking regulations would result in a hardship in that **the applicant has shown that a hardship is created by strict interpretation of the parking regulations as presented and additionally SAWS approves**. The motion seconded by **Ms. Cruz**.

**AYES: Rogers, Cruz, Rodriguez, Hardemon, Cano, Camargo, Britton, Briones, Gallagher, Dutmer**

**NAY: Moffat**

**THE VARIANCE WAS GRANTED.**



**Board members recessed for 10 minutes.**



**CASE NO. A-09-081**

Applicant – Jim Nguyen  
Lots 13, 14, and 15, Block A, NCB 35936  
21260 West Tejas Trail  
Zoned: "R-20 MLOD-1" Residential Single-Family Camp Bullis Military Lighting Overlay District

The applicant is requesting a 5-foot variance from the requirement that solid fences in front yards not exceed 3 feet in height, in order to keep an existing 8-foot solid fence in the front yard.

Mike Farber, Planner, presented background and staff's recommendation of denial of the requested variance. He indicated 13 notices were mailed, none were returned in favor and 5 were returned in opposition and the Forest Creek Neighborhood Association is in opposition.

**The following appeared to speak:**

Bonne Pargas, citizen, spoke in opposition

John Louis, citizen, spoke in opposition.

Dr. Michael Vaughn, citizen, spoke in opposition

David Strolle, 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-09-081 closed.

**MOTION**

A motion was made by **Mr. Camargo**. I would like to move that in case No **A-09-081**, a request of **Jim Nguyen**, on property located at **21260 West Tejas Trail**, also known as **Lots 13, 14, and 15, Block A, NCB 35936**, be granted the request for variance for a 5-foot variance for a solid screen fence on the property described where as the regulations do not allow solid fences to exceed 3-feet in height. For the following reasons the variance will be contrary to the public interest in that the majority of the adjacent property owners to the subject returned notices in opposition and in addition there were four persons that appeared before the board to oppose this request. It is felt that special conditions a literal enforcement on this property do not exist. The spirit of the ordinance is not being observed in that fencing of this height is not one that is standard, normal in this particular area. Such variance will not substantially injure the adjacent property in that it stands out as being out of character with the surrounding area. The plight of the owner for which the variance is sought is not due to unique circumstances that in compliance with the regulations could be accomplished. The motion seconded by **Mr. Hardemon**.

**AYES: None**

**NAY: Camargo, Hardemon, Cano, Dutmer, Rodriguez, Cruz, Rogers, Moffat, Briones, Britton, Gallagher**

**THE VARIANCE WAS NOT GRANTED.**



[REDACTED]

**Michael Taylor, Planner, briefed board members on the proposed Roosevelt Avenue Metropolitan Corridor Overlay District (MC-1).**

[REDACTED]

**Approval of the August 3, 2009 Minutes**

**The August 3, 2009 minutes were approved with all members voting in the affirmative.**

[REDACTED]

There being no further discussion, meeting adjourned at 4:16 p.m.

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

DATE: September 21, 2009

ATTESTED BY: [Signature] DATE: 9/23/09  
Executive Secretary