

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
August 22, 2011**

Members Present:

Michael Gallagher
Andrew Ozuna
Liz Victor
Edward Hardemon
Helen Dutmer
George Britton
Jesse Zuniga
Mary Rogers
David Villyard
Gene Camargo
Henry Rodriguez

Staff:

Andrew Spurgin, Planning Manager
Jacob Floyd, Senior Planner
Andreina Dávila-Quintero, 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.

Mr. Rodriguez arrived at 1:09 p.m.

CASE NO. A-11-026

Applicant – Keller Custom Signs

P-13G, NCB 15097

Southwest Corner of Timber Path and Village Park

Zoned: “R-5 AHOD” Residential Single Family Airport Hazard Overlay District

The applicant is requesting **1)** a variance to the regulation prohibiting digital display signs in residential zoning districts with frontage on local streets and residential collectors, in order to replace an existing sign with a LED electronic message center in a residential district with frontage on local streets; **2)** a 5-foot variance from the 8-foot maximum height limit for freestanding signs in residential zones, in order to allow a 13-foot tall sign; **3)** a 9-foot variance from the requirement that a freestanding sign in a residential zoning district be set back 15 feet from the public right-of-way, in order to allow a freestanding sign 6 feet from the public right-of-way; and **4)** a 4-foot variance from the requirement that a freestanding sign in a residential zoning district be set back a minimum of 10 feet from side and rear lot lines abutting residential uses, in order to allow a freestanding sign 6 feet from the side lot line.

Jacob T. Floyd, Senior Planner, presented background and staff's recommendation of denial of the variances requested to the height and digital display standards. Staff recommends approval of the two variances requested to the required setbacks. He indicated 18 notices were mailed, none were returned in favor and none were returned in opposition and no response from the Great Northwest Community Improvement Association.

Myrl Britten, representative, stated an 8-foot height would be destroyed very quickly versus an 11-foot sign. He also stated the new marquee would reduce the height from 16-feet to 13-feet, reduce the square footage from 48 square feet to 36 square feet and increase messages to the residents from roughly 2 a week to 20 a day. This would allow for information to the residents regarding emergency messages and time sensitive information.

The following citizens appeared to speak:

Daniel Robles, citizen, 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-11-026 closed.

1st MOTION

A motion was made by **Mr. Camargo**. I would to move that the Board of Adjustment in case **A-11-026**, on property legally described as **P-13G, NCB 15097**, which is the property located at the **Southwest Corner of Timber Path and Village Park**, be granted variances three and four which read as follows: **that a 9-foot variance from the requirement that a freestanding sign in a residential zoning district be set back 15 feet from the public right-of-way, in order to allow a freestanding sign 6 feet from the public right-of way and variance request number four being that a 4-foot variance from the requirement that a freestanding sign in a residential zoning district be set back a minimum of 10 feet from side and rear lot lines abutting residential uses, in order to allow a freestanding sign 6 feet from the side property line.** It is felt that the variances to the setbacks required from the public right-of-way and from the side and rear lot lines of abutting residential uses are necessary to allow a reasonable opportunity to place a new sign on the subject property. Due to the unique shape and restrictive size of the property a sign may not be situated in any manner that would comply with all required setbacks. Consequently, variances to these setbacks are necessary to erect a new sign on the subject property. Further the granting of the variance requested to the required setbacks will not provide the applicant with a privilege not enjoyed by others, but rather will ensure equity in the administration of the sign ordinance by allowing reasonable signage at this location. Without the requested variances no sign may be placed on the subject property as its dimensions prohibit compliance with the required setbacks. Further the variances to the required setbacks will not have a substantially adverse impact on the neighboring properties, provided the sign does not exceed 8 feet in height. The properties most affected will be screened from the proposed sign by existing privacy fences approximately 6 feet tall. I'd like to further point out that the staff does recommend approval of the variances to the setbacks. The motion was seconded by **Mr. Hardemon**.

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

NAY: None

THE VARIANCES WERE GRANTED.

2nd Motion

A motion was made by **Mr. Ozuna**. Re Appeal No **A-11-026** Variance Application for the **Great Northwest Community Improvement Association**, location **Southwest Corner of Timber Path and Village Park**, legal description **P-13G, NCB 15097**, zoning is **"R-5 AHOD"** Residential Single Family Airport Hazard Overlay District. The request for the motion is 1) a variance to the regulation prohibiting digital display signs in residential zoning districts with frontage on local streets and residential collectors, in order to replace an existing sign with a LED electronic message center in a residential district with frontage on local streets and 2) a 5-foot variance from the 8-foot maximum height limit for freestanding signs in residential zones, in order to allow a 13-foot tall sign. A denial of the variance would probably cause a cessation of legitimate, longstanding active commercial use of the property in that the request is justified given that the applicant has provided information to us that the billboard provides vital communication to the members of the association, school programs, and other location matters which is pertinent to the neighborhood and without the ability to provide this information then it would cause detrimental effects to the neighborhood. Second, the 8-foot height variance is required in order to alleviate some of the issues that the neighborhood has been having dealing in terms with the tagging, the slap tagging, and other mischievous which would pretty much render the billboard useless if they are not able to heighten the billboard to avoid some of the graffiti and other vandal attacks to the billboard. After seeking one or more of the two findings the board finds that the digital display, as permitted in the residential zoning district for nonresidential uses with the primary frontage on arterial commercial collectors of the expressway, is a variance to the requested display residential. It would violate Sec 28-246(a) but what we are saying here is that we are going to go ahead and make the motion. If the motion is approved or denied that the applicant still has the ability to appeal this to the City Council for their vote on the variance to the two motions we presented. Granting the variance will not have a substantially adverse impact on neighboring properties in that the applicant provided information to us today that they pulled the entire neighborhood constituency and they received only one negative vote and that was based on applicant who for some other reasons and is not proponderous. Proponderous of the neighborhood and the impact to support the project and to support the variances. Granting the variance will not substantially conflict with the stated purposes of this article in that again we know that is in violation of article Sec 382-240(c)(4) or ability to make a variance. The reason I am bringing it before the board is for us to make a motion, take a vote on the motion, and have the ability again to appeal it back to City Council. So I am supporting the motion for all the reasons that we stated. The motion was seconded by Ms. Victor.

AYES: Ozuna, Victor, Rodriguez, Hardemon, Dutmer, Zuniga, Gallagher
ABSTAINED: Rogers
NAY: Villyard, Camargo, Britton

THE VARIANCES WERE NOT GRANTED.

Board members recessed for 5 minutes.

CASE NO. A-11-057

Applicant – Harun Rashid, P.E.
Lot 18, Block 1, NCB 16072
5281 Casa Bella Street
Zoned: “C-3 NA ERZD MLOD-1” General Commercial Nonalcoholic Sales Edwards Recharge
Zone Military Lighting Overlay District

The applicant is requesting for **1)** a variance from the requirement of the “MLOD-1” Military Lighting Overlay District that all lighting fixtures which include or exceed two (2) foot-candles shall be fitted to render full cutoff [no light output emitted above ninety (90) degrees at any lateral angle around the fixture], in order to allow a total of eight (8) light fixtures at a 30-degree angle on two (2) domes; and **2)** a variance from the requirement to turn off outdoor lighting exceeding two (2) foot-candles at 11:00 P.M., in order to allow such light fixtures on the two (2) domes to turn off at 12:00 A.M. (midnight).

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-11-057 closed.

MOTION

A motion was made by **Ms. Dutmer to postpone this case.** The motion was seconded by **Ms. Rodriguez with all board members voting in the affirmative.**

MOTION PASSES.

Sign Master Plan No. 11-008

Raymond Rodriguez, applicant, briefed Board Members on Sign Master Plan for Bandera Pointe, located at State Loop 1604 (Anderson) and Bandera Road (SH 16).

Ms. Rogers made a motion to approve **Sign Master Plan No. 11-008** and was seconded by **Mr. Hardemon** and all members voted in the affirmative.

THE SIGN MASTER PLAN WAS APPROVED.

Sign Master Plan No. 11-009

Raymond Rodriguez, applicant, briefed Board Members on Sign Master Plan for Westover Marketplace, located at Highway 151 and 410 Northwest.

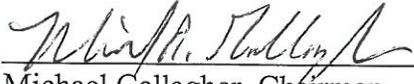
Mr. Camargo made a motion to approve **Sign Master Plan No. 11-009** and was seconded by **Mr. Ozuna** and all members voted in the affirmative.

THE SIGN MASTER PLAN WAS APPROVED.

Approval of the July 11, 2011 Minutes

The July 11, 2011 minutes were approved with all members voting in the affirmative

There being no further discussion, meeting adjourned at 2:19 p.m.

APPROVED BY:  OR _____
Michael Gallagher, Chairman Andrew Ozuna, Vice-Chair

DATE: 10-3-11

ATTESTED BY:  DATE: 10-10-11
Executive Secretary