

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
August 4, 2008**

Members Present:

Michael Gallagher
Paul Klein
Liz Victor
Edward Hardemon
Helen Dutmer
George Alejos
Mary Rogers
Gene Camargo
Rollette Schreckenghost
Mimi Moffat

Staff:

Fernando De Leon, P.E. Assistant Director
Christopher Looney, Planning Manager
Rudy Niño, Senior Planner
Michael Farber, Planner
Jacob Floyd, Planner
Paul Wendland, Asst. City Attorney
Andrea Giles, Planning Comm. & Dev.
Kay Hindes, Planning & Comm. & Dev.



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. Klein made a motion to move **Case No. 070-053** to the end of the agenda and was seconded by Ms. Dutmer and all members voted in affirmative.



CASE NO. A-08-070

Applicant – Delia Bara
Lot 5 & East 27.8 ft of 4, Block 2, NCB 1739
314 East Locust Street
Zoned: “H MF-33” Historic Multi-Family District

The applicant is requesting for a Special Exception to relocate a residential structure from 638 East Park Avenue to 314 East Locust Street.

Jacob Floyd, Planner, presented background and staff’s recommendation of approval on this case. He indicated 21 notices were mailed, none were returned in favor and 1 was returned in opposition and no response from Tobin Hill Neighborhood Association.

Delia Bara, applicant, stated the reason for this request is to save this home. She also stated her adult daughter who just graduated from college will be living at the house that is currently located on East Locust Street and her other adult daughter would be living in the house that she

wants to move from E Park Avenue. She further stated the house is being donated to her by the owner.

Kay Hindes, Interim Historic Preservation Office, stated staff recommended the architectural committee make a recommendation which they recommended approval.

The following citizen(s) appeared to speak:

William Keller, citizen, spoke in favor.

Richard Brownslee, citizen, spoke in favor.

Richard Moore, citizen, spoke in opposition.

William Sampey, 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-08-070 closed.

MOTION

A motion was made by **Ms. Rogers**. Re Appeal No. **A-08-070**, application for a **Special Exception to relocate a residential structure from 638 East Park Avenue to 314 East Locust Street**, subject property description **Lot 5 & east 27.8 ft of 4, Block 2, NCB 1739**, the applicant being **Ms. Delia Bara**. I move that the Board of Adjustment grant the applicant's request regarding the application for a Special Exception for the subject property as described above, because the testimony and evidence presented to us and the facts that we have determined show that this Special Exception meets the requirements listed in UD 35-399.03. Specifically we find that the following conditions have been satisfied. **It will maintain and comply with the zoning in the neighborhood and it will not create any safety hazards in the area.** The public welfare and convenience will be substantially served in that **it will contribute to the development of that community and preserve a historically significant building and HDRC approves this move.** The neighboring property will not be substantially injured by such proposed use in that **the residence to be located will be in keeping with the construction and character of the neighborhood.** 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 proposed structure shall be compatible with the surrounding buildings at the proposed site in the district and in 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 **this exception will conform to develop the use of the land and comply with city rules and regulations for restoring the house.** The motion seconded by **Mr. Klein**.

AYES: Rogers, Klein, Moffat, Shreckenghost, Alejos, Camargo, Victor, Hardemon, Gallagher, Dutmer

NAY: None

THE VARIANCE WAS GRANTED.**CASE NO. A-08-072**

Applicant – Jorge Gonzalez
Lot 2, Block 2, NCB 10688
507 Storeywood Drive
Zoned: "R-4" Residential Single-Family District

The applicant is requesting for a 1) an 8-foot, 4-inch variance from the 10-foot front setback requirement in "R-4" districts, in order to keep an existing carport 1-foot , 8-inches from the front property line and 2) a 2-foot , 4-inch variance from the requirement that a minimum 5-foot side setback be maintained in "R-4" zoning districts, in order to keep the same carport 2 feet, 8 inches from the side property line.

Michael Farber, Planner, presented background and staff's recommendation of denial of these variances. He indicated that there were 25 notices mailed, 1 was returned in favor and 1 was returned in opposition.

Samantha Gonzalez, representative, stated the reason for this request is to give her dad a carport he has always dreamed of. She also stated her brothers who are stationed in Iraq gave her dad money to build the carport. Her uncle who is a licensed carpenter constructed the carport and she further stated he did not know he needed a permit. The family also does not have enough funds to hire somebody to knock down the carport.

No citizens 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-08-072 closed.

MOTION

A motion was made by **Mr. Klein**. Re: Appeal No. **A-08-072**, variance application of **Jorge Gonzalez**, this is for **Lot 2, Block 52, NCB 10688**, address is known as **507 Storeywood Drive**, this is zoned **"R-4" Residential Single-Family District**, **this is a 2 fault variance the findings and facts apply and equally for both. The first request is for 8-foot, 4-inch variance from the requirement that carports in "R-4" districts sit not closer than 10 feet from the front property line in order to keep an existing carport 1-foot, 8-inches from the front property line and (2) a 2-foot, 4-inch variance from the requirement that a minimum 5-foot side setback be maintained in "R-4" zoning districts, in order to keep the same carport 2 feet, 8 inches from the side property line.** I move that the Board of Adjustment grant the applicants request regarding this appeal, for variances to the subject property as described above, because the testimony presented to us, and 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 **carports are allowed in "R-**

4" zoning. Due to the special conditions a literal enforcement of the ordinance would result in unnecessary hardship in that **the carport was constructed by family members with full intentions of doing a proper job. They were unaware that permits were necessary.** So that the spirit of the ordinance is observed and substantial justice is done in that **the applicant has agreed to if this variance request is approved to construct fire walls and complete construction in accordance with City of San Antonio regulations** Such variance will not authorize the operation of a use other than those uses specifically authorized for the districts in which the property for which the variance is sought is located in that **the zoning is "R-4" residential single-family district and its use is consistent with the zoning.** Such variance will not substantially or permanently injure the district in which that variance is sought in that **neighbors have contacted in the immediate area and have voiced no objection to the proposed carport nor the firewall that would be required.** Such variance will not alter the essential character of the districts in which the variance is sought in that **numerous carports of varying types do exist within the immediate area.** Such variance will be in harmony with the spirit and purpose of this chapter in that **the carport was built with good intentions by the family and it is their intent to maintain that harmony within the neighborhood.** The plight of the property owner for which the variance is sought is due to unique circumstances existing on the property and not personal in nature or self-created, and not merely financial, and are not due to or the result of the general conditions in the district in which the property is located in that **carports are allowed in "R-4" Residential Single-Family zoning.** The variance will not substantially weaken the general purposes of this chapter of the regulations herein established for the specified district in that **the zoning does not change with this proposed variance request.** The variance will not adversely affect the public health, safety or welfare of the public in that **the firewall will be constructed and remaining city permits will be secured. Mr. Klein would like to remove the request for the front yard variance.** The motion seconded by Mr. Alejos.

AYES: Klein, Alejos, Schreckenghost, Gallagher

NAY: Victor, Rogers, Moffat, Hardemon, Camargo, Dutmer

THE VARIANCE WAS NOT GRANTED.

Board members took a 15-minute recess.

CASE NO. A-08-075

Applicant – Leopoldo Vera

Lot 17, 18, and 19, NCB 6487

Zoned: "C-2 RIO-4" Commercial River Improvement Overlay District

The applicant is requesting a 20-foot variance from the requirement that a minimum 30-foot rear setback be maintained in "C-2 RIO-4" zoning districts, in order to build a structure 10 feet from the rear property line.

Jacob Floyd, Planner, presented background and staff's recommendation of denial on this case. He indicated 39 notices were mailed, 2 were returned in favor and none were returned in opposition.

Leopoldo Vera, owner, stated he is requesting this variance because he wants to add an addition to an old building. He also stated it would be a convenience to his tenants and the empty lot attracts hoodlums and people dumping trash.

Valentin Vera, owner's son, stated his father wants the ten feet because it would make a more appealing structure and keep it in line with the other building. He also stated it would benefit the community from having homeless people to shelter themselves. He further stated it would make more of a symmetrical building.

No citizens 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-08-075 closed.

MOTION

A motion was made by **Mr. Camargo**. In case **A-08-075**, the request of **Leopoldo Vera**, on property whose legal description is **Lot 17, 18, and 19, NCB 6487**, also known by address as **423 West Mitchell Street**, on property which is currently zoned **"C-2 RIO-4" Commercial River Improvement Overlay District**. **I would like to move approval of the request that the variance be granted to grant a 20-foot variance from the requirement that a minimum 30-foot rear setback be maintained in "C-2 RIO-4" zoning districts, in order to build a structure 10 feet from the rear property line.** Specifically we find that such variance will not be contrary to the public interest in that **all the notices that were mailed to property owners within 200 feet two were returned in favor.** Due to the special conditions a literal enforcement of the ordinance would result in unnecessary hardship in that **if the owner were to replat the three lots on which he is requesting a variance with the property they currently own and operate to the west this proposal would be allowed.** The frontage of this new lot would then become **Probandt** and it's a technicality. **In fact would meet the setback requirements of the zoning ordinance.** So that the spirit of the ordinance is observed and substantial justice is done in that **due to this technicality that I have mentioned an additional expense would be imposed on the property owner to meet that new interpretation of zoning setback requirements.** Such variance will not authorize the operation of a use other than those uses specifically authorized for the districts in which the property for which the variance is sought is located in that **the zoning classification and the property as mentioned earlier is zoned "C-2" commercial along with all the property to the east of this tract also being zoned for commercial use.** Such variance will not substantially or permanently injure the district in which that variance is sought in that **the development that currently exists to the west of the subject property in fact already enjoys the 10-foot setback requirement that the applicant is proposing in this particular case.** Such variance will not alter the essential character of the districts in which the variance is sought in that **it will be construction that will occur as an addition to an existing development to the west, northwest of the subject property.** Such variance will be in harmony with the spirit and purpose of this chapter in that **if these conditions**

are agreed to as stated they would meet the intent of the ordinance. The plight of the property owner for which the variance is sought is due to unique circumstances existing on the property and not personal in nature or self-created, and not merely financial, and are not due to or the result of the general conditions in the district in which the property is located in that it was discussed earlier there are other options for this proposed addition on this overall tract that it appears in order to be able to provide the required parking for these particular uses and good accessibility off the major streets such as Probandt and Mitchell the proposed location of the building would better soothe the overall development of this tract. The variance will not substantially weaken the general purposes of this chapter of the regulations herein established for the specified district in that Mitchell Street although not currently developed as fully commercial is zoned for those uses and as redevelopment occurs in this area we will see more commercial development and in this members opinion it would be best if there were some setback requirement off of Mitchell and on other major streets to allow appropriate ingress and egress. The variance will not adversely affect the public health, safety or welfare of the public in that the permits would be required for such construction and adherence to the city codes would be accomplished. The motion seconded by Mr. Hardemon.

AYES: Camargo, Hardemon, Schreckenghost, Dutmer, Rogers, Alejos, Victor, Klein, Gallagher

NAY: Moffat

THE VARIANCE WAS GRANTED.

CASE NO. A-08-076

Applicant – Thomas Howell.
Lot 3, Block 18, NCB 17438
5951 Spring Buck
Zoned: "R-6" Single-Family Residential District

The applicant is requesting 1) a 3-foot variance from the requirement that accessory structures exceeding 30-inches in height be located a minimum of 5 feet from any side or rear property line, in order to keep an existing accessory structure 2 feet from the rear and east side property lines and 2) a 4-foot, 6-inch variance from the requirement that accessory structures exceeding 30-inches in height be located a minimum of 5 feet from any side or rear property line, in order to keep an existing accessory structure 6 inches from the west side property lines.

Jacob Floyd, Planner, presented background and staff's recommendation of denial of these variances. He indicated that there were 39 notices mailed, 1 was returned in favor and 9 were returned in opposition and no response from Spring Creek Neighborhood Alliance.

Thomas Howell, owner, stated he is requesting this variance because he had an existing shed. He also stated his neighbors are in favor and do not have a problem with his variance. He further stated the contractor he hired did not advise him that he needed to pull a permit.

The following citizen(s) appeared to speak:

Dorothy Guevara, citizen, spoke in opposition.

Jesse Ellisor, 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-08-076 closed.

MOTION

A motion was made by **Mr. Hardemon**. In Case No. **A-08-076**, subject property **Lot 3, Block 18, NCB 17438**, address **5951 Spring Buck**, the applicant's name is **Thomas Howell**. I move that the Board of Adjustment grant the application request regarding appeal No. **A-08-076**, 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. Such variance will not be contrary to the public interest in that **the person wanting to have this building standing in state does not comply in what is asked**. Due to the special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **Mr. Howell has already spent money building it and it is completed**. So that the spirit of the ordinance is observed and substantial justice is done in that **no other changes to the property is sought by the applicant**. Such variance will not authorize the operation of a use other than uses specifically authorized for the districts in which the property for which the variance is sought is located in that **no changes to the property is used other than to store items that are not going to be used for business or such**. Such variance will not substantially or permanently injure the district in which that variance is sought in that **there are other structures in the area that are similar in structure but necessarily the same**. Such variance will not alter the essential character of the districts in which the variance is sought in that **many houses in the community have similar buildings structured**. Such variance will be in harmony with the spirit and purpose of this chapter in that **the spirit of the community is such that the property that Mr. Howell owns is in harmony with what is already in the area**. The plight of the property owner for which the variance is sought is due to unique circumstances existing on the property and not personal in nature or self-created, and are not due to or the result of the general conditions in the district in which the property is located in that **it is already completed and the city is aware of it**. The variance will not substantially weaken the general purposes of this chapter of the regulations herein established in for the specified district in that **this is a specific variance for this specific property**. The variance will not adversely affect the public health, safety or welfare of the public in that **there are no traffic or other safety concerns other than concerns of citizens in the area that feel that it would deviate the value of the property**. The applicants is requesting a 1) a 3-foot variance from the requirement that accessory structures exceeding 30-inches in height be located a minimum of 5 feet from any side or rear property line, in order to keep an existing accessory structure 2 feet from the rear and east side property lines, and 2) a 4-foot, 6-inch variance from the requirement that accessory structures exceeding 30-inches in height be located a minimum of 5 feet from any

side or rear property line, in order to keep an existing accessory structure 6 inches from the west side property line. The motion seconded by Ms. Victor.

AYES: Alejos

NAY: Hardemon, Victor, Moffat, Schreckenghost, Camargo, Dutmer, Rogers, Klein, Gallagher

THE VARIANCE WAS NOT GRANTED.

CASE NO. A-08-080

Applicant – Patricia Rodriguez

The north 60 feet of Lots 23, 24, 25, 26, & 27, Block 9, NCB 6242

1050 Barclay

Zoned: "MF-33" Multi-Family District

The applicant is requesting a Special Exception to relocate a residential structure from 18555 Leal Road to 1050 Barclay Street.

Michael Farber, Planner, presented background and staff's recommendation of approval of these variances. He indicated that there were 18 notices mailed, 2 were returned in favor and none were returned in opposition.

Patricia Rodriguez, owner, stated she is requesting this variance to be closer to her family and stay in the neighborhood she has been living in for the past 10 years. She also stated she owns the vacant lot on 1050 Barclay Street.

Jorge Zapata, representative, stated his church donated this house to Ms. Rodriguez. He also stated this move would be good for the society and also for the family.

The following citizen(s) appeared to speak:

Barbara Jones, 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-08-080 closed.

MOTION

A motion was made by Ms. Rogers. Re Appeal No. A-08-080, application for a **Special Exception to relocate a residential structure from 18555 Leal Road to 1050 Barclay Street**, subject property description is **the north of Lots 23, 24, 25, 26 & 27, Block 9, NCB 6242**, located at **1050 Barclay Street**, the applicant being **Patricia Rodriguez**. I move that the Board of Adjustment grant the applicant's request regarding application for a Special Exception for the subject property as described above, because the testimony and evidence presented to us and the facts that we have determined show that this Special Exception meets the requirements listed in

UD 35-399. Specifically we find that conditions have been satisfied. The special exception will be in harmony with the spirit and purpose of the chapter in that **it will maintain and comply with the current zoning and it does not create any safety hazards in the area.** The public welfare and convenience will be substantially served in that **it will contribute to the development of the community while attaining original character.** The neighboring property will not be substantially injured by such proposed use in that **the building will compatible and of conformity with the proposed lot and of equal of construction and quality and design as shown on the applicants plan and the surrounding buildings. I might add here to that as long as the relatives are living near by they all approve of that.** 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 **this structure will adhere to the overall character of 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 **this exception will promote and develop the use of the land.** The motion seconded by **Mr. Klein.**

AYES: Rogers, Klein, Alejos, Schreckenghost, Moffat, Camargo, Dutmer, Victor, Hardemon, Gallagher

NAY: None

THE VARIANCE WAS GRANTED.

CASE NO. A-07-053

Applicant – Xenia Q Aguilar
Lots 5 & 6, Block 4, NCB 14714
4207 Moonlight Way
Zoned: “R-6” Single-Family Residential District

The applicant is requesting a 3-foot variance from the requirement that predominantly open fences in front yards be no taller than 4 feet, in order to erect a 7-foot tall open fence in the front yard.

Jacob Floyd, Planner, presented background and staff’s recommendation of approval of these variances. He indicated that there were 20 notices mailed, 4 were returned in favor and none were returned in opposition and no response from Vance Jackson Neighborhood Association.

Xenia Aguilar, owner, stated one of her contractors had informed that she did not have to pull a permit for the fence because she already had a building permit. She also stated they have not constructed the fence and that the posts are the only thing they have put up. She further stated she has dropped down the circle she had on the front of the fence which made the height at eight feet.

The following citizen(s) appeared to speak:

P.J. Swanson, citizen, spoke in favor.

Alfredo Aguilar, 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-08-080 closed.

MOTION

A motion was made by **Mr. Camargo**. I would like to move that in **Case A-07-053**, the applicant **Xenia Aguilar**, on property known as **Lots 5 & 6, Block 4, NCB 14714**, also known as **4207 Moonlight Way**, zoned "**R-6**" Residential, that the Board of Adjustment approve the request for a **3-foot variance from the requirement that predominantly open fences in front yards be no taller than 4 feet, in order to erect a 7-foot tall open fence in the front yard**. Such variance will not be contrary to the public interest in that **of all the notices that were mailed to property owners within 200 feet none were returned in opposition**. Due to the special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **in this particular area which has a rural atmosphere with large lot developments the development on some of the property is of fences of similar height and similar design**. So that the spirit of the ordinance is observed and substantial justice is done in that **the applicant has shown a desire and intent to comply with the city's regulations specifically to drainage problems that exist along Moonlight way in order to satisfy problems that could be created to adjacent property owners**. Such variance will not authorize the operation of a use other than uses specifically authorized for the districts in which the property for which the variance is sought is located in that **if anything hoping resolution of this fencing height would allow the applicant to obtain final inspections on this structure that is ultimately complete in order to allow her to move into this residence**. Such variance will not injure the district in which that variance is sought in that **with the variance the applicant will be in compliance and that the variance has been granted by the Board of Adjustment**. Such variance will not alter the essential character of the districts in which the variance is sought as **I mention earlier they are other fences of similar design adjacent or in the area**. The plight of the property owner for which the variance is sought is due to unique circumstances existing on the property and not personal in nature or self-created, and not merely financial, and are not due to or the result of the general conditions in the district in which the property is located in that **statements made being that this property is close to Huebner Road a major thoroughfare in the city that there is some evidence that there are burglaries and intrusions to properties and it certainly appears to me that a fence of this height that provides security to not only this property but other properties in the area is certainly warranted**. The variance will not substantially weaken the general purposes of this chapter of the regulations herein established in for the specified district in that **the regulations gives this board the authority to make exceptions or variances to the strict adherence of the zoning regulations..** The variance will not adversely affect the public health, safety or welfare of the public in that **permits would be taken by the applicant and hopefully inspections would be made to insure compliance with the fence requirements**. The motion seconded by **Ms. Rogers**.

AYES: Camargo, Rogers, Moffat, Schreckenghost, Hardemon, Alejos, Klein, Dutmer, Victor, Gallagher

NAY: None

THE VARIANCE WAS GRANTED.

Board members took a 5-minute recess.

Sign Master Plan No. 08-010

David Simpson, Chief Sign Inspector, briefed Board Members on Sign Master Plan for Alamo Ranch Marketplace, located at North Loop 1604 West and Alamo Ranch Parkway.

Ms. Dutmer made a motion to approve **Sign Master Plan No. 08-010** and was seconded by **Mr. Hardemon** and all members voted in the affirmative..

Sign Master Plan No. 08-011

David Simpson, Chief Sign Inspector, briefed Board Members on Sign Master Plan for Goliad-Dorado, located at Goliad and IH 37 South.

Mr. Klein made a motion to approve **Sign Master Plan No. 08-011** and was seconded by **Ms. Schreckenghost** and all members voted in the affirmative..

Sign Master Plan No. 08-012

David Simpson, Chief Sign Inspector, briefed Board Members on Sign Master Plan for Santa Barbara Properties.

Mr. Hardemon made a motion to approve **Sign Master Plan No. 08-012** and was seconded by **Ms. Dutmer** and all members voted in the affirmative..

Sign Master Plan No. 08-013

David Simpson, Chief Sign Inspector, briefed Board Members on Sign Master Plan for The Parke, located at Loop 1604 and Potranco.

Mr. Klein made a motion to approve **Sign Master Plan No. 08-013** and was seconded by **Mr. Hardemon** and all members voted in the affirmative..



Approval of the Minutes

Ms. Rogers made a motion to approve June 16, 2008 minutes and **Ms. Dutmer** seconded it and all members voted in the affirmative.





There being no further discussion, meeting adjourned at 5:21 p.m.

APPROVED BY: Michael R. Gallagher OR _____
Michael Gallagher, Chairman Paul Klein, Vice-Chair

DATE: _____

ATTESTED BY: Christopher J. Looney DATE: 9-15-08
Christopher J. Looney
Development Services, Planning Manager