

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
December 5, 2011**

Members Present:

Michael Gallagher
Andrew Ozuna
Edward Hardemon
Helen Dutmer
George Britton
Mary Rogers
Jesse Zuniga
Gene Camargo
Paul Klein
Maria Cruz

Staff:

John Jacks, Interim Assistant Director
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.

CASE NO. A-12-004

Applicant – Daniel Monreal
Lot 4, Block 3, NCB 9690
150 Freiling Drive
Zoned: “R-4 AHOD” Residential Single-Family Airport Hazard Overlay District

The applicant is requesting a 7-foot variance from the minimum 20-foot rear setback requirement, in order to allow a 13-foot setback from the centerline of the alley (5-foot, 6-inch setback from the rear property line).

Andreina Dávila-Quintero, Planner, presented background and staff’s recommendation of denial of the requested. She indicated 31 notices were mailed, one was returned in favor and one was returned in opposition and no response from the Dellview Area Neighborhood Association.

Sharon Monreal, representative, stated this is an existing residential home with an accessory structure that was attached to the main structure. She also stated the owner did not know he needed a permit since it was an already existing structure. She further stated the structure is only used for residential not commercial use.

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-12-004 closed.

MOTION

A motion was made by **Mr. Camargo**. I would move that in Case No. **A-12-004**, the applicant being **Daniel Monreal**, on property located at **150 Freiling Drive**, also known as **Lot 4, Block 3, NCB 9690**, zoned **"R-1" Single-Family**, be granted a variance as requested for the following reasons. Such variance will not be contrary to the public interest in that **from the total notices mailed to the adjacent property owners, the majority was in favor. There was one notice returned in opposition which from viewing it on the map appears to be one of the lots furthers located from the property in question.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **a literal enforcement of the code requirement would not be necessary to be applied to this particular property. The structure to the rear of the lot has existed for some period of time and it appears that the technicality in this case is the fact that when the addition in the center of the lot, between the main structure to the front and the structure to the rear becomes one, and the setback requirements come into play.** The spirit of the ordinance is observed and substantial justice is done in that **even if this variance were to be denied for that connection in the center the structure at the rear of thee lot would still remain as it is and the setback would remain unchanged.** 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 zoning classification, which is "R-1" Single-Family, has been stated by the applicant's representative that this will be used and has been used as a single-family home. It has been stated by the applicant's representative also that the equipment that was shown on the first case that came before this board has been cleaned up and moved and relocated to another site. The appropriate department of the city would monitor this operation to ensure that it is not a commercial use as has been suspected.** 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 **in fact the adjacent uses are single family and in this members opinion would not be jeopardized by this variance being granted.** 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 only uniqueness that I see on this particular property is the fact that it is a narrow lengthy lot that extends between a street right-of-way and an alley for which makes it some what difficult to expand in a sideways direction thus causing the configuration of the structure as we have been shown.** The motion was seconded by **Mr. Hardemon**.

AYES: Camargo, Hardemon, Rogers, Britton, Zuniga, Dutmer, Klein, Cruz, Ozuna, Gallagher

NAY: None

THE VARIANCE WAS GRANTED.

CASE NO. A-12-005

(3:22:00)

Applicant – Hilario Garcia, Jr.

Lot 76, Block 2, NCB 11314

5602 UTSA Boulevard

Zoned: “R-6 AHOD” Residential Single-Family Airport Hazard Overlay District

The applicant is requesting 1) An appeal of the Development Services Department Director’s decision to deny the registration of a nonconforming use for a construction trades contractor for the property located at 1442 Menefee Boulevard. 2) An appeal of the Development Services Department Director’s decision to revoke the Certificate of Occupancy issued to Premier Rebar & Wire, Inc, for the property located at 1442 Menefee Boulevard.

Jacob Floyd, Senior Planner, presented background and staff’s recommendation of denial of the requested. He indicated 19 notices were mailed, none were returned in favor and 6 were returned in opposition and no response from the Thompson Community Association.

Hilario Garcia, Jr., applicant, stated there were no requirements for a Certificate of Occupancy issued in the 1950s because the property was not annexed. He also stated there property was zoned industrial in 2010. He further stated he provided documentation that the property was used for construction purposes in the 1980s.

The following citizens appeared to speak:

Esperanza Esquivel, citizen, spoke in opposition.

Juan Esquivel, citizen, spoke in opposition.

Rosie Perez, citizen, spoke in opposition.

Yolanda Garza, 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-12-005 closed.

MOTION

A motion was made by **Ms. Dutmer**. In Case No **A-12-005**, applicant **Hilario Garcia, Jr.**, owner **Herlinda N. Perez**, location **1442 Menefee Boulevard**, the legal description is **Lot 76, Block 2, NCB 11314**, zoning is **“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District**. The request is for an **appeal of the Development Services Director’s decision to deny the registration of a nonconforming use for a construction trades contractor for the property located at 1442 Menefee Boulevard**. The use was lawfully established prior to annexation. The use has been continuously maintained since the subject property was annexed. That the use has not been abandoned at any point since it was annexed. The motion was seconded by **Mr. Camargo**.

AYES: Dutmer

NAY: Camargo, Britton, Klein, Hardemon, Rogers, Cruz, Zuniga, Ozuna, Gallagher

THE MOTION FAILS.

THE SECOND REQUEST FAILS DUE TO LACK OF MOTION FROM ANY OF THE BOARD MEMBERS.

Board members recessed for 10 minutes.

CASE NO. A-12-007

Applicant – Diana Fuentes
Lot 123, Block 12, NCB 18712
5931 Cliff Ridge Drive
Zoned: “R-6” Residential Single-Family District

The applicant is requesting a Special Exception to allow a one-operator beauty/barber shop in a residential zoning district.

Andreina Dávila-Quintero, Planner, presented background and staff’s recommendation of approval of the requested special exception. She indicated 40 notices were mailed, one was returned in favor and 4 were returned in opposition and the Great Northwest Community Improvement Association is in opposition.

Diana Fuentes, applicant, stated she is asking to renew her special exception for a one-operator beauty shop that will be expiring. She also stated she currently has a city and state permit. She further there have not been any complaints from the city, state, and the homeowners association. She works strictly by appointments and does not have issue with parking. This will also help her to care for her elderly father.

The following citizens appeared to speak:

Ida Rodkey, 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-12-007 closed.

MOTION

A motion was made by **Ms. Rogers**. Re Appeal No. **A-12-007**, variance for subject property at **5931 Cliff Ridge Drive**, owner **Diana Fuentes**, **Lot 123, Block 12, NCB 18712, "R-6" Residential Single-Family** located at Applicant I move that the Board of Adjustment grant the applicants request for a **Special Exception to allow a one-operator beauty shop in a residential zoning district**. Specifically, we find that the requested special exception will be in harmony with the spirit and purpose of the chapter in that **the requested special exception is in harmony with the spirit and purpose of the UDC as the existing one-operator beauty shop complies with the specified additional criteria established in Section 35-399.01 of the UDC**. The public welfare and convenience will be substantially served in that **the existing one-operator beauty/barber shop has served the surrounding residential area and has been in continuous operation since 2004. The proposed request, if approved, will allow the existing use to continue serving the public within the area**. The neighboring property will not be substantially injured by such proposed use in that **the existing one-operator beauty/barber shop is located on the front portion and only comprises approximately twenty percent (20%) of the gross building area of an existing single-family residential structure**. Furthermore, this beauty shop will be operated by the owner of the residential home on an appointment only schedule that will not exceed twenty (20) hours per week. The continuing operation of the one-operator beauty shop will not have any adverse impact on the adjacent residential properties as there is a one-operator person so the parking will not create a problem. 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 continuing use of the existing one-operator beauty shop will not alter the essential character of the district**. The applicant is not proposing to alter the appearance of the structure, and thus will maintain its residential look and character. A separate entrance to the beauty shop was installed on the south side elevation of the building; however, the existing structure maintains its single-family residential appearance. The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district in that **the City of San Antonio's UDC allows barber and beauty shops in all residential zoning districts subject to additional conditions, limitations, and restrictions to meet the intent and purpose of the residential districts, as well as protect the residential areas and neighboring properties**. The existing one-operator beauty shop complies with all the additional conditions as established in the UDC, and thus will not weaken the general purpose of the district. The shop will operate as stated 20 hours Monday and Tuesday from 1:00 to 6:00 pm., on Thursday 11:00 am to 4:00 pm, on Friday from 10:00 am to 12:00 pm, and on Saturday from 9:00 am to 12:00 pm. This exception is going to be for four years. The motion was seconded by **Ms. Cruz**.

AYES: Rogers, Cruz, Camargo, Hardemon, Klein, Britton, Zuniga, Dutmer, Ozuna, Gallagher

NAY: None

THE SPECIAL EXCEPTION WAS GRANTED.

CASE NO. A-12-008

Applicant – Paul Hiers
Lot 15, Block 13, NCB 17643
8919 Deer Park
Zoned: “R-6 AHOD” Residential Single-Family Airport Hazard Overlay District

The applicant is requesting 1) a 9-foot, 5.2-inch variance from the 10-foot minimum front setback requirement, in order to allow a 6.8-inch front setback and 2) a 1.1-foot variance from the 5-foot minimum side setback requirement, in order to allow a 3.9-foot side setback.

Andreina Dávila-Quintero, Planner, presented background and staff’s recommendation of denial of the requested variances. She indicated 36 notices were mailed, 3 were returned in favor and none were returned in opposition

Paul Hiers, representative, stated the carport was originally constructed was built on the property line. He also stated he has been in contact with staff and has been given different options and directions as to where to put the carport. He was instructed to remove the setback by pursuing a plat. He further the purpose of the carport is to protect his vehicles. There are several other properties in the neighborhood that have carports that are similar to his.

The following citizens appeared to speak:

Mark White, 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-12-008 closed.

MOTION

A motion was made by **Mr. Ozuna**. Appeal No. **A-12-008**, variance application for **Paul Hiers**, subject property description is **Lot 15, Block 13, NCB 17643**, situated at **8919 Deer Park**, applicant again is for **Paul Hiers**, the request is for **1) a 9-foot, 5.2-inch variance from the 10-foot minimum front setback requirement, in order to allow a 6.8-inch front setback; and 2) a 1.1-foot variance from the 5-foot minimum side setback requirement, in order to allow a 3.9-foot side setback. The motion is to grant a variance for an open carport and there is not going to be a face wall or future enclosed walls and what exists today is a structure that we are seeing and no other improvements are to be made to this structure. I move that the Board of Adjustment grant the applicant’s request regarding Appeal No. A-12-008, 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 applicant has shown or demonstrated to us today of the number of carports in the neighborhood that are built I would say most likely in less quality than what the applicant has prepared. In addition the applicant has brought before us a list of all the neighboring property owners that were in concurrence with the structure that the applicant had built.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **if the variance were to be enforced that the applicant would be required to remove or tear down the structure. The applicant has already, after consulting with city staff, moved the carport in with what he thought was required as setback to be in compliance. The applicant has made testimony that he will provide a building permit for the structure and will comply with all building requirements as required by the City of San Antonio.** The spirit of the ordinance is observed and substantial justice is done in that **the variance will be keeping with the spirit of the ordinance and will not do a substantial justice. The property is uniquely influenced by a present condition being a trapezoid configuration of the property, which provided initially a unique configuration where the house would have to be moved further to the street which impacted the applicant's ability to build a carport to shield his vehicles.** 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 subject variance will not alter the "R-6" Residential Single-family base zoning district which currently exists.** 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 **applicant has provided testimony to us today about the preponderous of these carports that shape if you will the fabric of the neighborhood and that it is no unsightly that it is in continuity with the neighborhood design.** 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 unique trapezoidal configuration of the property and in addition to the applicant's request from the City of San Antonio numerous time for advice as to how to build this carport I think has somehow manifested into what the applicant has build and his requested for the variances today.** The motion was seconded by Mr. Hardemon.

AYES: Ozuna, Hardemon, Klein, Cruz, Camargo, Dutmer, Rogers, Britton, Zuniga, Gallagher

NAY: None

THE VARIANCES WERE GRANTED.



CASE NO. A-12-009

Applicant – Ortiz Pharmacy

S 0.787 acre portion of Lot 15, Block 19, NCB 8991

2503 Castroville Road

Zoned: “C-2NA AHOD” Commercial Nonalcoholic Sales Airport Hazard Overlay District

The applicant is requesting a 15-foot variance from the 30-foot minimum rear setback requirement when abutting a residential use or zoning district, in order to allow a 15-foot rear setback.

Andreina Dávila-Quintero, Planner, presented background and staff’s recommendation of denial of the requested variance. She indicated 23 notices were mailed, one was returned in favor and none were returned in opposition.

Victor Ortiz, applicant, stated he is requesting this variance in order to construct a parking lot. He also stated when the original pharmacy was built they had estimated only having about twelve employees. Currently they have twenty-five employees, four delivery vehicles, and several doctors. He further stated this would help accommodate parking for the people in the building. He also owns the corner lot.

The following citizens appeared to speak:

Francisco Franco, Jr., 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-12-009 closed.

MOTION

A motion was made by **Mr. Klein**. In Case No. **A-12-009**, the applicant is **Ortiz Pharmacy**, the owner is **Ortiz RX, LTD.**, location is **2503 Castroville Rd**, the legal description is a **0.787 acre portion of Lot 15, Block 19, NCB 8991**, the zoning is **“C-2NA AHOD” Commercial Nonalcoholic Sales Airport Hazard Overlay District**, the request is for a **15-foot variance from the 30-foot minimum rear setback requirement when abutting a residential use or zoning district, in order to allow a 15-foot rear setback from the property line to the face of a proposed 3-story parking garage**. I move that the Board of Adjustment grant the applicant’s request regarding this appeal, 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 **this would represent an expansion of business in the immediate area**. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the geometry of the point 0.787 acre portion makes it difficult to respect the 30-foot setback that is required from the present zoning to the adjacent residential zoning**. The spirit of the ordinance is observed and

substantial justice is done in that **the applicant has become the Board of Adjustment with significant information to substantiate his request for a 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 proposed uses of pharmacy physician's offices, professions offices, and parking garage are allowed within the property as currently zoned in the UDC.** 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 **Castroville Road does include numerous commercial ventures of this nature.** 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 **again the applicant has seemed fit to hire professionals to represent him with confident designs and come before the Board of Adjustment requesting the 15-foot variance from the required 30-foot setback to residential property.** The motion was seconded by **Mr. Zuniga.**

AYES: Zuniga Hardemon, Camargo, Cruz, Rogers, Britton, Ozuna, Dutmer, Gallagher
NAY: Klein

THE VARIANCE WAS GRANTED.

CASE NO. A-12-010

Applicant – Brown and Ortiz, P.C.

Lots 12, Block 6, NCB 9491

3523 Roosevelt Avenue

Zoned: "C-2 MC-1 AHOD" Commercial Roosevelt Avenue Metropolitan Corridor Overlay
Airport Hazard Overlay District

The applicant is requesting a 1) a 15-foot variance from the maximum 25-foot sign height standard for single-tenant signs of the "MC-1" Roosevelt Avenue Metropolitan Corridor Overlay District, in order to allow the existing 40-foot tall freestanding sign, and 2) a 106-square foot variance from the maximum 65-square foot sign area standard for single-tenant signs of the "MC-1" Roosevelt Avenue Metropolitan Corridor Overlay District, in order to allow the existing 171-square foot freestanding sign.

Andreina Dávila-Quintero, Planner, presented background and staff's recommendation of denial of the requested variances. She indicated 12 notices were mailed, one was returned in favor and none were returned in opposition and no response from the Harlandale Neighborhood Park Association.

James Griffin, representative, stated this would allow for another business to have a sign that would be equal to or less than the allowable height and square footage under the code. He also stated this is an existing sign and legally installed in accordance to the code at the time. The base pole has been installed and properly permitted. He further stated this variance will make an

existing legal nonconforming sign conforming and they are not asking to install a new sign at a height of greater than what is already allowed.

The following citizens appeared to speak:

Walter Grubben, citizen, spoke in favor.

Larry Gottsman, 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-12-010 closed.

MOTION

A motion was made by **Mr. Camargo**. In case No **A-12-010**, on property located on **3523 Roosevelt Avenue**, also known as **Lot 12, Block 6, NCB 9491**, applicant being **Brown and Ortiz, P.C.**, in the request of the above stated case for 1) a **15-foot variance from the maximum 25-foot sign height standard for single-tenant signs of the "MC-1" Roosevelt Avenue Metropolitan Corridor Overlay District**, in order to allow the existing 40-foot tall freestanding sign, and 2) a **106-square foot variance from the maximum 65-square foot sign area standard for single-tenant signs of the "MC-1" Roosevelt Avenue Metropolitan Corridor Overlay District**, in order to allow the existing 171-square foot freestanding sign to remain in place. It is felt that this variance should be granted for the following reasons. Specifically, we find that the variance is not contrary to the public interest in that **of the notices that were mailed, none were returned in opposition. There was a gentleman that appeared from the Harlandale Neighborhood Association stating that they are in support of this variance in order to allow development to occur on a much larger project than that which is under consideration today.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **there has been so many special situations that have occurred over the years on this piece of property in reference to the sign master plan, that is felt that we should move forward to approve this variance to allow the next step to occur to clean up this overall sign situation on this property.** The spirit of the ordinance is observed and substantial justice is done in that **substantial justice will be done and the purpose of the ordinance will be accomplished in that we can perhaps finally come back by to the board with an overall master plan that includes all the properties that should be included with all the appropriate signatures that are required by city code.** 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 **these are all commercial properties and they are commercial uses that are proposed within.** 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 **it has been stated by city staff that the signage along this portion of Roosevelt was constructed in accordance to regulations and existence at that time, that they are nonconforming from the standpoint, and that they exceed the height limitation of the Roosevelt Ave metropolitan corridor.** 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 **there have been many explanations that have been given, differences of opinion in whether a sign master plan exists or not, what is legal and what is not. It is felt that by us approving this variance hopefully we can move forward to the next step to clarify the situation on this overall development.** The motion was seconded by Mr. Dutmer.

AYES: Camargo, Dutmer, Rogers, Hardemon, Klein, Cruz, Zuniga, Britton, Ozuna, Gallagher

NAY: None

THE VARIANCES WERE GRANTED.

Sign Master Plan No. 12-001

Jeannette Maengus, applicant, briefed Board Members on Sign Master Plan for Newton Bulverde Road, Ltd., located at 18211 Bulverde Road.

Mr. Klein made a motion to approve **Sign Master Plan No. 12-001** and was seconded by **Mr. Ozuna** and all members voted in the affirmative.

THE SIGN MASTER PLAN WAS APPROVED.

Sign Master Plan No. 12-002

Andrew Perez, Sign Inspector, briefed Board Members on Sign Master Plan for Sam Houston Center, located at Rittiman Road and Harry Wurzbach.

Mr. Camargo made a motion to approve **Sign Master Plan No. 12-002** and was seconded by **Ms. Rogers** and all members voted in the affirmative.

THE SIGN MASTER PLAN WAS APPROVED.

There being no further discussion, meeting adjourned at 5:29 p.m.

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

DATE: JAN 9, 2012

ATTESTED BY: [Signature] DATE: _____
Executive Secretary