

**BOARD OF ADJUSTMENT  
OFFICIAL MINUTES  
February 28, 2011**

**Members Present:**

Michael Gallagher  
Andrew Ozuna  
Liz Victor  
Helen Dutmer  
George Britton  
Mary Rogers  
Jesse Zuniga  
Gene Camargo  
Maria Cruz

**Staff:**

Christopher Looney, Interim Asst. Director  
Andrew Spurgin, AICP, Planning Manager  
Rudy Niño, Senior Planner  
Jacob Floyd, 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.

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**CASE NO. A-11-016**

Applicant – Wereldhave USA – San Antonio, L.P.

Lot 1, Block 4, NCB 18411

17101 La Cantera Parkway

Zoned: “MPCD GC-1 AHOD MLOD-1 MSAO-1 ERZD” Master Planned Community District  
Hill Country Gateway Corridor Airport Hazard Overlay Camp Bullis Military Lighting Overlay  
Camp Bullis Sound Attenuation Overlay Edwards Recharge Zone District

The applicant is requesting a variance from the requirements of Chapter 35, section 35-339.04 “Military Lighting Overlay Districts”, subsection (b)(6) “Commercial Lighting”, that lighting fixtures installed on any commercial property and which include or exceed 2 foot-candles shall be fitted to render them full cutoff.

Jacob Floyd, Senior Planner, presented background and staff’s recommendation of denial of the requested variance. He indicated 14 notices were mailed, none were returned in favor and 1 was returned in opposition.

James Griffin, representative, stated they are requesting this variance to light three flagpoles that have flags. He also stated Jim Cenizo with the army stated that this request is compatible with their nighttime operations. The fixtures that are going are going on the flagpoles are light

wattage which is why it would require for two of them on each light pole. He stated federal law requires that the United States flag be lit at night. He further stated the major aspect of this development was the lighting of the property and trees.

**The following citizens appeared to speak:**

Eddie Estrada, 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-11-016 closed.

**MOTION**

A motion was made by **Mr. Ozuna**. Re Appeal No **A-11-016**, variance applicant for **Wereldhave USA – San Antonio, L.P.**, subject property address is **17101 La Cantera Parkway**, subject property description is **Lot 1, Block 4, NCB 18411**, again situated at **17101 La Cantera Parkway**. I move that the Board of Adjustment grant the applicant's request regarding Appeal No. **A-11-016**, 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. The variance specifically is for a **variance from the requirements of Chapter 35, section 35-339.04 "Military Lighting Overlay Districts", subsection (b)(6) "Commercial Lighting", that lighting fixtures installed on any commercial property and which include or exceed 2 foot-candles shall be fitted to render them full cutoff. The variance is requested specially to allow six lighting fixtures to upwardly illuminate three flag poles and the flags flying atop them. More specifically I would add into the record that the location of the six lighting poles be located in the very specific location as detailed on the site plan provided in the exhibit and will need to show the exhibit for the variance. Specifically we find that the variance will not be contrary to the public interest in that the evidence provided to the board from the military, specifically the Camp Bullis Environmental Officer, that the proposed variance is acceptable to the military provided that it is specific to the six low voltage lights in the general location of the site plan. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that evidence has been provided to the board that the property was purchased in 2005 by the applicant and that the Military Overlay District was passed in 2008 which changed from the direction of their site plan. Additionally adjoining properties, specifically The Rim, have been grandfathered or exempt from this overlay district in which it provides an uneven competition in that the applicant's project does not get the visibility as it competes with the adjoining project of The Rim. The spirit of the ordinance is observed and substantial justice is done in that again evidence provided to the board that the military, specifically the Camp Bullis Environmental Officer who represents the military in this action, is in compliance and that the applicant's lighting proposal is compatible with the military's mission there at Camp Bullis. 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 variance will not authorize the operation of a land use not specifically authorized for this Master Planned**

**Community District.** 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 variance will not substantially injure the appropriate use of the adjacent Camp Bullis property as the potential for glare and sky glow is minor and may not be detrimental to the nighttime training capability required to ensure the long term viability of Camp Bullis.** 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 overlay district was enacted after the owner purchased the property and made his due diligence based on competitive sets in which the overlay district was imposed after the borrower's purchase and developmental plans. Specifically the military is not in opposition of the request. I move that the board approve the request.** The motion was seconded by Ms. Victor.

**AYES: Ozuna, Rogers, Cruz, Britton, Dutmer**

**NAY: Victor, Zuniga, Camargo, Gallagher**

**BEFORE THE RESULTS WERE ANNOUNCED MR. CAMARGO MADE THE FOLLOWING MOTION FOR AN AMENDED VARIANCE.**

## **2<sup>nd</sup> MOTION**

A motion was made by **Mr. Camargo.** I would like to move that in Case No A-11-016, variance on property legally described as **Lot 1, Block 4, NCB 18411, also known as 17101 La Cantera Parkway,** be granted a variance to **Chapter 35, Section 35-339.04 "Military Lighting Overlay Districts", subsection (b)(6) "Commercial Lighting",** to allow the lighting on one specific flag pole that has been outlined by the applicant's representative and in accordance with the lighting specifications that the applicant stated for the record on a specific location which we will include as Exhibit A showing the specific location for the following. The variance will not be contrary to the property interest in that **considering only those property owners within 200 feet, only one notice was returned in opposition. Others that are of equal concern are far beyond, not to say that they have no interest or no contest, that it was a feeling that their properties would not be affected themselves by the lighting. The opposition that was expressed here at the meeting was the concern of the granting of the variance to this lighting overlay ordinance that was adopted by the city. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that the property would be enhanced and by having a least the American flag situated in the middle of this new development and properly lit in accordance with the regulations. The spirit of the ordinance is observed and substantial justice is done in that the most important flay that they proposed to display will be properly lighted in accordance with federal regulations.** 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 **other than those that is permitted in the zoning classification, in that the overall use of this property is permitted within the zoning classification that the property enjoys.** 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 **as been stated in the**

**presentations there are other properties that are grandfathered that exceed that which the applicants are proposing.** 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 **while it is this members feeling that the unique circumstances are not that extreme but that the low lighting and location of at least one flag pole will certainly help the business to thrive.** The motion was seconded by Ms. Victor.

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

**NAY: None**

**THE AMENDED VARIANCE IS GRANTED.**

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**CASE NO. A-11-020**

Applicant – Jerry Arredondo

Lot 2, NCB 751

723 W Cypress

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

The applicant is requesting a 1-foot 11-inch variance from the requirement that accessory detached dwelling units be setback a minimum of 5 feet from the side property line, in order to keep an existing accessory detached dwelling unit 3 feet 1 inch from the west side lot line.

Jerry Arredondo, representative, has requested to continue this until the next regularly scheduled meeting.

**MOTION**

**A motion was made by Ms. Rogers to continue this case until the next regularly scheduled meeting on March 28, 2011 at the request of the applicant. The motion was seconded by Mr. Zuniga with all members voting in the affirmative.**

**MOTION PASSES.**

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**CASE NO. A-11-021**

Applicant – Thomas Flores

P-200B, NCB 10917, (Proposed Lot 5, Block 1, NCB 17201)

9758 Bobbie Allen Way (Proposed 3231 Shane Road)

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

The applicant is requesting a 404-foot 6-inch variance from the “R-6” district requirement of a maximum 150-foot lot width, in order to allow a lot with a width of 554 feet 6 inches.

Jacob Floyd, Senior Planner, presented background and staff's recommendation of denial of the requested variance. He indicated 13 notices were mailed, one was returned in favor and none were returned in opposition.

Tom Flores, representative, stated when the applicant originally bought the land his intention was to put a home on this land. He did not realize there was a zoning issue until he started the platting process. He stated some family occurrences slowed the process. He also stated to be in compliance with "R-6" he would to create four lots in which one lot would not be build able because it would fall into the flood plain. He further stated there is going to be a bridge placed on Shane Road which will be made to an all weather road so it will not be subject platting. This will create additional problems regarding the four lots on the property which the applicant does not want. He just wants to build one home on the property for his family.

**No following 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-11-021 closed.

**MOTION**

A motion was made by **Mr. Camargo**. I would like to move that in Case A-11-021, applicant being **Thomas Flores**, on property whose legal description is **P-200B, NCB 10917 Proposed address of 3231 Shane Road**, be granted a **404-foot 6-inch variance from the "R-6" district requirement of a maximum 150-foot lot width, in order to allow a lot width of 554 feet 6 inches**. The variance will not be contrary to the property interest in that **from the notices that were mailed to the adjacent property owners none were returned in opposition**. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the owner of this property is the person that is burdened with this requirement under the current regulations that did not exist previously to this recent code adoption that did not have this minimum 150 foot lot frontage requirements**. The spirit of the ordinance is observed and substantial justice is done in that **there are other properties in the area on platted and unplatted land that are located on properties that have a greater width than 150 feet**. Such variance will not authorize the operation of a use other than those uses specifically allowed in the zoning classification in that **the proposal is to build a single family residence on this large lot**. 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 **just review of the aerial photo and the land use map, there are other single family developments on lots that are greater than 150 foot frontage**. 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 **this is one instance where these particular findings of fact, which is sometimes hard to meet, is very true**. This is a situation where a property owner that owned this land under previous regulations and now is hampered by the fact that we have adopted new regulations that imposes this extremely expensive burden on the property

owner in order to develop this land in an area of town where we would like to see more development to occur. This is a very smartly developed area. The motion was seconded by Ms. Victor.

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

**NAY:** None

**THE VARIANCE WAS GRANTED.**

Board members took a 10-minute recess.

**CASE NO. A-11-022**

Applicant – Rachel A. Sanchez

Lot 2, Block 9, NCB 18559

7913 Bandera Road

Zoned: "I-1 AHOD" General Industrial Airport Hazard Overlay District

The applicant is requesting an 80-foot variance from the requirement that freestanding signs along Arterial Type A streets maintain a minimum spacing of 150 linear feet, in order to locate a freestanding sign a distance of 70 feet from an existing sign.

Jacob Floyd, Senior Planner, presented background and staff's recommendation of denial of the requested variance. He indicated 12 notices were mailed, one was returned in favor and none were returned in opposition.

Rachel Sanchez, applicant, stated she put up the existing sign in 1991 when the new regulations were not in effect. At that time she was one of two businesses that had signs. She also stated she wanted to do some maintenance to the sign but the sign was far beyond from renovations because the sign was rotten. She did not think there was a problem since she just wanted to replace the sign with a weather proof sign. She further stated the sign is not visible from certain views due to palm trees and other tall signs which she cannot afford to put. There have not been traffic problems with the existing sign and not being able to replace this sign with the same sign would be hard for traffic to see.

**No following 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-11-022 closed.

**MOTION**

A motion was made by **Mr. Camargo**. I would like to move that in Case **A-11-022**, on property known as **7913 Bandera Road**, legally described as **Lot 2, Block 9, NCB 18559**, be granted an **80-foot variance from the requirement that freestanding signs along Arterial Type "A"**

streets maintain a minimum spacing of 150 linear feet, in order to locate a freestanding sign a distance of 70 feet from an existing sign for the following reasons. The variance is necessary because strict enforcement of this article prohibits any reasonable opportunity to provide adequate signs on the site, considering the unique features of a site such as its dimensions, landscaping, or topography. **It has been stated by the applicant that the pole sign that exist on the one end of the property cannot be seen from the direction when you travel southeast on Bandera due to palm trees that are located there beyond that sign. It is necessary that in order for her clients that come to this center to be able to identify clearly the entrance and location of the property.** A denial of the variance would probably cause a cessation of legitimate, longstanding active commercial use on this property in that **the sign which he proposes to replace has been in existence since 1991 and due to the fact that it is in a state of deterioration the applicant is proposing to replace a sign that is very similar in size. A sign which is located 96 feet in width and 40 inches in height, the total height being 55 inches to the grade which she proposes to locate.** The motion was seconded by Ms. Dutmer.

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

**NAY: None**

**THE VARIANCE WAS GRANTED.**

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**Sign Master Plan No. 11-003**

Arturo Elizondo, Sign Inspector, briefed Board Members on Sign Master Plan for The Rim – Revised SMP, located at 17401 La Cantera.

**Ms. Rogers** made a motion to approve **Sign Master Plan No. 11-003** and was seconded by **Ms. Cruz** and all members voted in the affirmative.

**THE SIGN MASTER PLAN WAS APPROVED.**

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**Approval of the February 7, 2011 Minutes**

**The February 7, 2011 minutes were approved with all members voting in the affirmative.**

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There being no further discussion, meeting adjourned at 2:59 p.m.

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

DATE: 3-28-11

ATTESTED BY: Chris Lunny DATE: 4-4-11  
Executive Secretary