

**BOARD OF ADJUSTMENT  
OFFICIAL MINUTES  
January 10, 2011**

Members Present:

Michael Gallagher  
Andrew Ozuna  
Helen Dutmer  
Mary Rogers  
Jesse Zuniga  
Mike Villyard  
Gene Camargo  
Paul Klein  
Harold Atkinson  
Henry Rodriguez  
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.

**Mr. Camargo** made a motion to reappoint Mr. Gallagher as chairman and Mr. Ozuna as vice-chair. With all members voting in the affirmative.

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**CASE NO. A-11-005**

Applicant – City of San Antonio Parks and Recreation Department  
P-10, ABS 124, NCB 11672  
8400 Northwest Military Highway  
Zoned: “R-6 AHOD” Residential Single-Family Airport Hazard Overlay District

The applicant is requesting a 3-foot 2-inch variance from the requirement that predominantly open fences not exceed 6 feet in height, in order to allow a 9-foot 2-inch tall predominantly open fence.

Jacob Floyd, Planner, presented background and staff’s recommendation of approval of the requested variance. He indicated 64 notices were mailed, 2 were returned in favor and one was returned in opposition and no response from the North Castle Hills Neighborhood Association.

Sandy Jenkins, representative, stated this variance is needed because of dumping and vandalism. She also stated the topography with the adjoining property owner makes it easier for the tenants of the apartment complex to throw trash over the fence. She further stated this part of the park is currently not open to the public.

**The following citizens appeared to speak:**

Colleen Taylor, citizen, spoke in favor.

Jerry Burke, 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-11-005 closed.

**MOTION**

A motion was made by **Mr. Ozuna**. Re Appeal No **A-11-005**, variance application for the **City of San Antonio Parks and Recreation Department**, subject address of **8400 Northwest Military Highway**, subject property description is **Lot P-10, ABS 124, and NCB 11672**, again situated at **8400 Northwest Military Highway**. I move that the Board of Adjustment grant the applicant's request regarding Appeal No **A-11-005**, 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 request that the applicant is making is for a **3-foot, 2-inch variance from the requirement that predominantly open fences not exceed 6 feet in height, in order to allow a 9-foot, 2-inch tall predominantly open fence as its currently situated on the property from Military to Larkspur further defined as 1,850 linear feet of the southeastern property line of Hardberger Park between Northwest Military Highway and the east side of Larkspur**. The variance is not contrary to the public interest in that **the granting of the variance is not contrary to the public interest as the fence would secure the public park property and enter the trash dumping and vandalism currently experienced**. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the literal enforcement of the fence height provisions would result in unnecessary hardship due to the vandalism experienced by the subject property**. **The additional fence height requested will provide increased security and deter such events**. The spirit of the ordinance is observed and substantial justice is done in that **the variance would be in keeping with the spirit of the ordinance and do substantial justice as the fence will better secure the public park from illegal dumping and vandalism**. 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 granting of the variances will not authorize the operation of a use other than those specifically authorized in the existing "R-6" zoning 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 granting of the variance will not injure the appropriate use of adjacent conforming property nor will the essential character of the public park be altered**. The fence is located on a relatively small portion of

**the total park boundary and is necessary to secure the public park property from illegal dumping and vandalism.** 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 plight of the owner of the property is due to criminal activity and the desire to obstruct that activity and is not due to general conditions in the district.** The public park is a uniquely attractive target for vandalism and illegal dumping, a problem that does not plaque typical "R-6 zoned properties. The motion was seconded by Ms. Dutmer.

**AYES: Ozuna, Dutmer, Camargo Klein, Rogers, Atkinson, Villyard, Cruz, Zuniga, Rodriguez, Gallagher**

**NAY: None**

**THE VARIANCE WAS GRANTED.**

#### **CASE NO. A-11-015**

Applicant – Harry Jewett

Lot 10, Block 5, NCB 12815

4319 Medical Drive

Zoned: "C-3 AHOD" General Commercial Airport Hazard Overlay District

The applicant is requesting a 20-foot variance from the requirement that non-residential development less than 200 Peak Hour Trips per driveway, or other major driveways not otherwise enumerated in Table 50-7, have a minimum driveway throat length of 40 feet, in order to allow a 20-foot driveway throat lengths.

Jacob Floyd, Planner, presented background and staff's recommendation of approval of the requested variance. He indicated 11 notices were mailed, none were returned in favor and none were returned in opposition.

Harry Jewett, applicant, stated (3:35:00) this 4 ½ acre lot was platted in 1977 and the buildings were built in 1978 which consisted of 86,000 square feet and the 246 parking spaces. He also stated in November of 2009 the city informed them of taking additional right of way along Medical Drive for an under pass that will go under Fredericksburg Road. The frontage on the Medical Center Drive of this particular will be on a frontage road and will not have direct access to Medical Drive because Medical Drive at this location will be depressed underneath Fredericksburg Road. He further stated when the plans would be modified they would be subject to a 40 foot driveway throat requirement because the driveways on the property meet the criteria less than 200 Peak Hour Trip at the five driveway locations. If they were to do this they would have an elimination on the east side building of 46 percent of the property of the building size and on the west building a 38 percent of the building size. A 20-foot driveway would be cause a 30 foot reduction on the east building and 27 percent reduction on the west building which would this right of way would cause a big impact on the property.

**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-11-015 closed.

**MOTION**

A motion was made by **Mr. Camargo**. I would move that in Case No **A-11-015**, the applicant being **Harry Jewett** representing the owner **Medical Park Plaza, Ltd**, on property located at **4319 Medical Drive**, also known as legal description **Lot 10, Block 5, NCB 12815**, be granted a **20-foot variance from the requirement that non-residential development less than 200 Peak Hour Trips per driveway, or other major driveways not otherwise enumerated in Table 506-7, have a minimum driveway throat length of 40 feet, in order to allow a 20-foot driveway throat lengths on the above described property**. It is felt that the request is not contrary to the property interest in that **the variance will not be contrary to the public interest as it appears that the proposed 20-foot driveway throat length will provide enough vehicle staking so that arriving vehicles will not queue back onto Medical Drive**. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the literal enforcement of the driveway throat length requirements will result in unnecessary hardship**. The taking of right-of-way along Medical Drive requires that a portion of the existing commercial buildings be demolished and reconfiguration of the parking area. The literal enforcement of the 40-foot driveway throat length requirement will require that **28,343 square feet of building are be demolished, while the variance will require demolition of 19,361 square feet of building area**. The spirit of the ordinance is observed and substantial justice is done in that **the variance will allow the spirit of the ordinance to be observed and do substantial justice by minimizing the building area required to be removed as a result of right-of-way expansion**. 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 use other than specifically authorized in the "C-3" zoning classification**. 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 appropriate use of adjacent conforming property will not be injured will the essential character of the district be altered**. 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 plight of the owner of the subject property is due to the unique circumstance of the right-of-way taking eliminating existing parking areas and requiring removal of a portion of the existing commercial building to replace the lost parking area and make way for the road improvement and widening and further staff recommends approval of this variance that is being requested**. The motion was seconded by **Mr. Villyard**.

**AYES: Camargo, Villyard, Klein, Rogers, Atkinson, Zuniga, Cruz, Rodriguez, Ozuna, Dutmer, Gallagher**

**NAY: None**

**THE VARIANCE WAS GRANTED.**

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**Sign Master Plan No. 11-001**

Arturo Elizondo, Sign Inspector, briefed Board Members on Sign Master Plan for Wonderland, located at 4522 Fredericksburg.

**CASE NO. A-10-057**

Applicant – Wonderland of the Americas, Inc.  
Lots 2 and 12, Block 3, NCB 11632  
4522 Fredericksburg Road  
Zoned: “C-2 AHOD” Commercial Airport Hazard Overlay District

The applicant is requesting a variance to the requirements of Chapter 28, section 28-244 regarding a Sign Master Plan agreement.

Jacob Floyd, Planner, presented background and staff’s recommendation of denial of the requested variances. He indicated 6 notices were mailed, one was returned in favor and one was returned in opposition.

Patrick Christensen, representative, stated there is not entry to Wonderland Mall from Target. He also stated that only a small sliver of the property is located in the City of San Antonio. He further stated he submitted the master plan to have two signs including Target and one additional sign. The issue with the Target is it is an existing sign that is too big to be the secondary sign. If the sign master plan were to be approved they would have to knock down the Target sign and make it 13 feet smaller. The variance would be for the existing Target sign to remain.

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**Board members recessed for 13 minutes.**

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Patrick Christensen, representative, has requested to withdraw the variance request No. **A 10-057** and amend the master sign agreement application to requiring them to reduce the Target sign to staff’s and the codes allowable units. The Target sign is going to be shortened by 2 ½ feet to 47.5 feet and reduced in size from its existing 294.5 feet to 281 square feet.

**Sign Master Plan No. 11-001**

Arturo Elizondo, Sign Inspector, briefed Board Members on Sign Master Plan for Wonderland, located at 4522 Fredericksburg.

**Mr. Camargo** made a motion to approve **Sign Master Plan No. 11-001 with the amendments that have made to the sign master plan here today and initialed by the applicant.** The motion was seconded by **Mr. Rodriguez** and all members voted in the affirmative.

**THE SIGN MASTER PLAN WAS APPROVED AS AMENDED.**

**Sign Master Plan No. 11-002**

Andrew Perez, Sign Inspector, briefed Board Members on Sign Master Plan for Bulverde Marketplace, located at 3800 North Loop 1604 East.

**Ms. Dutmer** made a motion to approve **Sign Master Plan No. 11-002** and was seconded by **Mr. Ozuna** and all members voted in the affirmative.

**THE SIGN MASTER PLAN WAS APPROVED.**

**Approval of the November 29, 2010 Minutes**

**The November 29, 2010 minutes were approved with all members voting in the affirmative.**

**Approval of the December 13, 2010 Minutes**

**The December 13, 2010 minutes were approved with all members voting in the affirmative with the exception of Ms. Dutmer abstaining.**

