

**BOARD OF ADJUSTMENT  
OFFICIAL MINUTES  
January 11, 2010**

**Members Present:**

Michael Gallagher  
Andrew Ozuna  
Gene Camargo  
Liz Victor  
Edward Hardemon  
Helen Dutmer  
George Britton  
Mary Rogers  
Mimi Moffat  
Paul Klein  
Maria Cruz

**Staff:**

Fernando De León, Assistant Director  
Rudy Niño, Jr., Senior Planner  
Jacob Floyd, Planner  
Michael Farber, Planner  
Paul Wendland City Attorney

**Call to Order**

Pledge of Allegiance to the U.S. and Texas Flags.

Mr. Gallagher, Chairman, called the meeting to order and called roll of the applicants for each case.

Mr. Klein arrived at 1:04 p.m.

**CASE NO. A-10-010**

Applicant – David U. Martinez Jr.  
Lots 24, 25, 26, and 27, Block 46, NCB 1870  
1243 West Russell Place  
Zoned: “R-6 NCD-5” Residential Single-Family Beacon Hill Neighborhood Conservation District

The applicant is requesting for 1) a 6-foot 1-inch variance from the Beacon Hill Area Neighborhood District requirement that driveway areas beyond the curb cut shall maintain a maximum width 12-feet, in order to keep an existing driveway area 18-feet 1-inch wide and 2) an 8-foot variance from the Beacon Hill Area Neighborhood Conservation District requirement that driveway curb cuts shall not exceed 15 feet in width, in order to keep an existing curb cut 25 feet wide.

Jacob Floyd, Planner, presented background and staff’s recommendation of approval of the requested variance. He indicated 31 notices were mailed, 4 were returned in favor and 1 was returned in opposition and no response from Beacon Hill Neighborhood Association

Raquel Martinez, owner, stated they obtained their permits and inspections. She also stated a city employee informed them that it was ok to pour the cement. She further stated she spent so much money on trying to improve her property therefore she could not tear it down.

**The following citizens appeared to speak:**

David Martinez, citizen, spoke in favor.

Matthew Martine, citizen, spoke in favor.

Cosima Colvin, 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-10-010 closed.

**MOTION**

A motion was made by **Mr. Ozuna**. Re Appeal No **A-10-010**, variance application for **1243 West Russell Place**, subject property description is **Lots 24, 28, 26, and 27, Block 46, NCB 1870**, situated again at **1243 West Russell Place**, the applicant is **David U. Martinez, Jr.** The variance request of **David Martinez** is for 1) a **6-foot, 1-inch variance from the Beacon Hill Area Neighborhood Conservation District requirement that driveway areas beyond the curb cut shall maintain a maximum width of 12-feet in order to keep an existing driveway area 18-feet 1-inch wide and 2) an 8-foot variance from the Beacon Hill Neighborhood Conservation District requirement that driveway curb cuts shall not exceed 15 feet in width, in order to keep an existing curb cut 25 feet wide.** I move that the Board of Adjustment grant the applicant's request regarding Appeal No **A-10-010**, 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 UDC, as amended, would result in an unnecessary hardship. Specifically we find that such variance will not be contrary to the public interest in that **it does not appear that the granting of these variance would be contrary to the public interest.** The applicant obtained the permit for sidewalk and driveway approach construction prior tot work being done and it does not appear that the contined existence of the driveway and curb cut in their current configuration will create a situation that would be detrimental to the public. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the subject property is significantly larger than the majority of other single-family properties in the neighborhood with approximately 100 feet of street frontage (along W Russell) compared to between 50 and 75 feet for the remaining block face.** Additionally, the applicant states that the driveway allows their family to park off the street and avoid damage to vehicles.. By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done in that **it does appear that the granting of these variances would meet the spirit of the ordinance and substantial justice would be done.** The applicant obtained the required permit prior to beginning construction of the driveway approach and the current dimensions of the driveway and

**curb cut provide adequate parkign area for the residents.** Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located in that **the granting of these variances will not authorize the operation of a use other than those uses specifically authorized in the "R-6 NCD-5" 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 **it does not appear that the granting of these variances will injure the appropriate use of adjacent conforming property as their current uses will remain as is.** 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 subject property is larger than the typical single-family residential properties in the neighborhood and possesses more street frontage as a result. Additionally, the applciant obtained the necessary permit for construction of the driveway approach.** The motion seconded by Ms. Dutmer.

**AYES: Ozuna, Dutmer, Camargo, Hardemon, Klein, Britton, Cruz, Rogesr, Victor, Moffat, Gallagher**

**NAY: None**

**THE VARIANCE WAS GRANTED.**

**Sign Master Plan No. 10-005**

Arturo Elizondo, Sign Inspector, briefed Board Members on Sign Master Plan for Stone Ridge Market, located at Evans Road and U.S. Highway 281 North.

**Mr. Britton** made a motion to approve **Sign Master Plan No. 10-005** and was seconded by **Ms. Cruz** and all board members voted in the affirmative.

**THE SIGN MASTER PLAN WAS APPROVED.**

**Approval of the January 11, 2010 minutes**

**The January 11, 2010 minutes were approved with all members voting in the affirmative.**

**Staff Report**

**Paul Wendland, Assistant City Attorney, briefed board members on motion language and meeting procedures.**

There being no further discussion, meeting adjourned at 2:15 p.m.

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

DATE: 2-1-10

ATTESTED BY: J. Lopez DATE: 2/2/10  
Executive Secretary