

**BOARD OF ADJUSTMENT  
OFFICIAL MINUTES  
July 11, 2011**

Members Present:

Michael Gallagher  
Andrew Ozuna  
Helen Dutmer  
George Britton  
Jesse Zuniga  
Mary Rogers  
Mike Villyard  
Gene Camargo  
Henry Rodriguez  
Harold Atkinson

Staff:

Andrew Spurgin, Planning Manager  
Jacob Floyd, Senior Planner  
Rudy Niño, Senior Planner  
Andreina Dávila-Quintero, 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-11-039**

Applicant – Alamo Sign Solutions, LLC  
Lot 38, NCB 14946  
11202 North IH 35  
Zoned: “I-1 IH-1 AHOD” General Industrial Northeast Gateway Corridor Airport Hazard Overlay District

The applicant is requesting a 212.35-square foot variance to the 150-square foot maximum area for single tenant signs in the “IH-1” Northeast Gateway Corridor, in order to allow a total sign area of 362.35 square feet.

Jacob Floyd, Senior Planner, presented background and staff’s recommendation of denial of the requested variance. He indicated 20 notices were mailed, none were returned in favor and none were returned in opposition.

James Alfaro, applicant, stated there has been a sign erected by his company that was approved by the board for height, led, and overall square footage. He also stated across the highway another business was allowed to install a 3 foot by 8 foot led sign. He further stated they are removing 2 foot by 6 foot a sign that does not work and replacing it with a 4 foot by 8 foot sign which is basically increasing the existing by 25 square foot sign. They are taking the entire

structure in a whole which shows they are exceeding the maximum allowed square feet. They are not touching the face of the sign or reposition, lowering, or raising the pole.

**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-11-039 closed.

## **MOTION**

A motion was made by **Mr. Ozuna**. Re Appeal **A-11-039**, variance application for **11202 North IH 35**, subject property is **Lot 38, NCB 14946**, again situated at **11202 North IH 35**, the applicant is requesting a **114.35 square foot variance to the 150 square foot maximum area for single tenant signs in the "IH-1" Northeast Gateway Corridor Overlay District Section 35-339.03 in order to allow a total sign area of 362.35 square feet**. I move that the Board of Adjustment grant the applicant's request regarding appeal No. **A-11-039**, 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 the variance is not contrary to the public interest in that **the variance is not contrary to the public interest as the purpose of the "IH-1" Gateway Corridor Overlay District is to create a more attractive, cohesive and safe environment, and reduce visual chaos and driver distractions along roadways**. The applicant provided prior testimony to us and showed that the distraction of having to use a smaller sign to what he is proposing would actually create more of a traffic hazard for motorists speeding by 35, they would have to brake or slow down to read the text on the sign. What the applicant is proposing with the sign is to provide a safe way for the roadway community to read the sign and effectively take appropriate action. Additionally there is no opposition from the public. The staff has provided to us information that there was no opposition to the request for the sign variance. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the literal enforcement of this article does create unnecessary hardship in the operation of a hotel on this property**. The existing sign does not conform to the standards of the **"IH-1" district and the proposed addition of the LED sign will prolong the life of a nonconforming sign**. The subject property is extraordinary in its topography or situation such that the visibility of the sign is unusually limited. The spirit of the ordinance is observed and substantial justice is done in that **the variance is consistent with the spirit of the ordinance and would provide substantial justice**. The subject property is uniquely influenced by oppressive conditions and its reasonable use is contingent on the provision of signage greater than that permitted within the district. The variance will relieve a burdensome effect of a regulation created by the unique physical conditions of the property not a result of a special privilege enjoyed by similarly situated properties within the overlay zoning district. Again we have seen uses across from 35 and the surrounding area that have enjoyed the privilege of a signage variance ordinance that this board have passed. 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 authorize the operation of a use that is not permitted within the "I-1 IH-1 AHOD" zoning district as the use of on-premises signs for commercial advertising is not permitted within this district utilizing signs of this overall height and area. The variance is sought to provide signage that will allow the operation to continue as an ongoing concern.** 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 **but we have seen testimony by the applicant that the signs will actually provide more readable text and cure what is allowed to be right now with this small sign.** 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 subject to unique circumstances from which a plight may arise. The variance is sought to replace a portion of a nonconforming sign with a sign of greater nonconformity and to find relief from a unique oppressive condition. The circumstances from which the applicant seeks relief are the inherent standards of the "IH-1" overlay district.** The motion was seconded by Mr. Rodriguez.

**AYES: Ozuna, Rodriguez, Atkinson, Dutmer**

**NAY: Villyard, Britton, Camargo, Zuniga, Gallagher**

**ABSTAIN: Rogers**

**THE VARIANCE WAS NOT GRANTED.**

**CASE NO. A-11-037**

Applicant – Patricia A Burton

Lot 161, NCB 8237

539 Old Highway 90

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

The applicant is requesting 1) a 10-foot, 6-inch variance to the 30-foot minimum side setback requirement of the "C-3" district when abutting a residential zoning district, in order to allow a 19-foot, 6-inch side setback; and 2) a 30-foot variance to the 30-foot minimum rear setback requirement of the "C-3" district when abutting a residential zoning district, in order to allow a structure on the north rear property line.

Andreina Dávila-Quintero, Planner, presented background and staff's recommendation of denial the requested variance. She indicated 24 notices were mailed, none were returned in favor and none were returned in opposition and no response from Los Jardines and Community Workers Council.

Patricia Burton, applicant, stated the old boot shop has been there since the 1920s. She also stated the building is not going to be used as storage but as a garage for the vehicles. She further stated the lots surrounding this property are owned by her family.

**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-11-037 closed.

**MOTION**

A motion was made by **Mr. Camargo**. I would like to move that in Case **A-11-037**, on property located at **539 Old Highway 90 W**, legally described as **Lot 161, NCB 8237**, that the board grant a **1) a 10-foot, 6-inch variance from the 30-foot minimum side yard setback requirement of the "C-3" district and 2) a 30-foot variance from the 30-foot minimum rear yard setback requirement of the "C-3" district** be granted for the following reason. The variance will not be contrary to the public interest in that **as much from the notices that were sent out to the adjacent property owners none were turned in opposition. Further at this time it has been stated that the property immediately to the north where the proposed structure abuts, is currently owned by the same family.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the fact that this lot has an irregular street frontage and that it's not perpendicular per say to the highway causes some problems in trying to design a structure that will fit onto this property that can be used in conjunction which we now know already exist.** The spirit of the ordinance is observed and substantial justice is done in that **the commercial development along this portion of Old Highway 90 has similar characteristics in that the commercial development in the area has existed for a number of years and none of the existing structures comply with the newer setback regulations that currently are in place.** Such variance will not authorize the operation of a use other than those uses specifically **allowed in the zoning classification which the applicant proposes and city staff will ensure that only the appropriate uses for the classification will occupy the structure.** 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 **adjacent properties according to the zoning map are also zoned for commercial purposes. Again I will reiterate that they have indicated that the adjoining properties are owned by the applicant's family.** 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 circumstances in my opinion are the fact that there is an existing building that they are proposing to connect onto and also the fact that the lot is somewhat skewed and not perfectly rectangle creates some problems in developing the property.** The motion was seconded by **Ms. Dutmer**.

**AYES: Camargo, Dutmer, Britton, Rogers, Atkinson, Zuniga, Rodriguez, Ozuna, Gallagher**

**NAY: Villyard**

**THE VARIANCE WAS GRANTED**

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**CASE NO. A-11-045**

Applicant – James R. Denton

Lot 9, Block 2, NCB 11858

8107 Countryside Drive

Zoned: “NP-10 AHOD” Neighborhood Preservation Airport Hazard Overlay District

The applicant is requesting a 2-foot, 6-inch variance from the maximum 6-foot side and rear yard fence height standard, in order to allow an 8-foot, 6-inch solid fence in the side and rear yards on the south side property line.

Andreina Dávila-Quintero, Planner, presented background and staff’s recommendation of denial of the requested variance. She indicated 16 notices were mailed, 3 were returned in favor and none were returned in opposition and no response from Oak Park Northwood.

James Denton, applicant, stated his intent was to get an 8-foot fence but the column was a littler higher for architecture ecstatic. He also stated there also an elevation and a serious of step downs every twenty feet. He further stated they are trying to tie this into the architecture of the neighborhood.

**The following citizens appeared to speak:**

Stuart Hendry, 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-11-045 closed.

**MOTION**

A motion was made by **Mr. Ozuna**. Re Appeal A-11-045, variance application for **8107 Countryside Drive**, property description is **Lot 9, Block 2, NCB 11858**, situated again at **8107 Countryside Drive**, the variance request is for a **2-foot variance from the maximum 6-foot side and rear yard fence height standard, in order to allow an 8-foot solid fence in the side and rear yards on the south side property line. The variance to be granted for an 8-foot 6-inch in accordance with the drawing that has been submitted to us that indicates that the cap for declaration purposes as said architecturally be allowed.** I move that the Board of Adjustment grant the applicant’s request regarding appeal No **A-11-045**, 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 the variance will not be contrary to the public interest in that **the requested variance will not adversely impact the well-being of the general public as it will not obstruct visibility for impending traffic. The proposed fence will be located along the south side property line within the rear yard and a portion of the side yard of the subject property, and will be obstructed from view from the right-of-way. In addition, the applicant submitted a letter from the neighboring property owner to**

**the south expressing no objections to the proposed fence.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **according to the submitted application, the finished elevation of the driveway on the neighboring property to the south is higher than the subject property by up to two (2) feet.** Due to this change in elevation, the applicant states that a 6-foot fence along this portion of the property would function as a  $\pm 4$ -foot fence on the neighbor's side, thus reducing its effectiveness. However, this change of elevation only applies to a very small portion of the property as shown in the submitted drawings. Both properties follow the same slope for the remainder of the length of the fence with an elevation difference of less than one foot where the proposed 8-foot fence would be an effective barrier between the two property lines. The spirit of the ordinance is observed and substantial justice is done in that **the requested variance is for a fence along the south side property line to provide privacy from the adjoining property to the south that is at a slightly higher elevation.** The subject property is a 26,928-square foot single-family lot within a neighborhood preservation district. The intent of the fence height standard is to allow openness, air flow, light penetration and neighborhood uniformity. Due to the large size of the lot and the proposed location of the fence, the requested variance still meets this intent as the fence, where proposed, will not reduce openness, air flow or light penetration on the property. 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 requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the "NP-10" Neighborhood Preservation 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 requested variance will not adversely impact the adjacent conforming properties.** The fence, where proposed, will only impact the neighboring property to the south. **The applicant submitted a letter from the property owner to the south in support of the request.** 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 requested variance is due to the existing slope on the property and the difference in elevation from the adjoining property to the south.** These conditions are not a result of the general conditions of the zoning district or an action done by the property owner, or due to financial hardship. The motion was seconded by Mr. Villyard.

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

**NAY: None**

**THE VARIANCE WAS GRANTED.**

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**Board members recessed for 10 minutes.**

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**CASE NO. A-11-047**

Applicant – Alonzo E. Gates II  
Lot 22, Block 2, NCB 11555  
9022 Callaghan Road  
Zoned: “R-5” Single-Family Residential District

The applicant is requesting a 3-foot variance from the maximum 3-foot front yard solid fence height standard, in order to allow a 6-foot solid fence in the front yard.

Andreina Dávila-Quintero, Planner, presented background and staff’s recommendation of approval of the requested variance. She indicated 18 notices were mailed, 5 were returned in favor and none were returned in opposition and no response from the Vance Jackson Neighborhood Association.

Habib Erkan, representative, stated there is an existing fence that has deteriorated. He also stated the home faces a major Arterial street. He further stated the topography of the property slopes downward from Callaghan Road and the applicant’s home is located significantly below street level which limits privacy.

**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-11-047 closed.

**MOTION**

A motion was made by **Ms Rogers**. Re Appeal **A-11-047**, variance application for **Alonzo E. Gates II**, subject property description **Lot 22, Block 1, NCB 11555**, located at **9022 Callaghan Road**. 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 the variance will not be contrary to the public interest in that **the requested variance will not adversely impact the well-being of the general public as it will not obstruct visibility for impending traffic due to its setbacks**. The subject property is an interior lot in a single-family residential subdivision with approximately three hundred eleven feet of frontage on a Type A Secondary Arterial (Callaghan Road). The fence, where proposed, will be setback approximately twenty-five feet from the edge of the road, thus maintaining the existing landscape buffer between the edge of pavement and the fence and there was no opposition from the neighbors nor homeowner association. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the proposed location of the fence where the variance is being sought will surround the property’s front yard that directly abuts Callaghan Road, which is a four lane road with an 86-foot right-of-way and vehicle trips ranging from thirty thousand to thirty-four thousand Vehicles Per**

**Day.** A literal enforcement of the 3-foot solid fence within the front yard of a single-family property may cause undue hardship as the permitted fence will not provide substantial mitigation from this busy and fast traffic, noise, and other potential hazards that an arterial street may have on a single-family residential home. The spirit of the ordinance is observed and substantial justice is done in that **the proposed fence will be set back approximately twenty-five feet from the edge of the road and thus comply with the intent of the fence standards of not obstructing traffic's visibility and maintaining openness along the street frontages.** 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 requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the "R-5" Single-Family Residential 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 **subject property is part of a subdivision that consists of large size lots where the majority of the lots front an arterial road. Due to the location and lot sizes, the houses are significantly set back from the front property line. In addition, they are downhill quite a ways so that from the road the vision is to the rooftops. In addition, the fence where proposed will be set back approximately 25 feet form the edge of the road.** 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 the unique location of the subject property in that it is an interior lot that fronts a secondary arterial. The existing conditions were created at the time the property was platted in 1960. These conditions are not a result of the general conditions of the zoning district or an action done by the property owner, or due to financial hardship.** The motion was seconded by Mr. Camargo.

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

**NAY:** None

**THE VARIANCE WAS GRANTED**

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**CASE NO. A-11-048**

Applicant – Charles Gottsman

Lot 2A, Block 33, NCB 9593

823 Bandera Road

Zoned: "C-2 AHOD" Commercial Airport Hazard Overlay District and "C-3 AHOD" General Commercial Airport Hazard Overlay District.

The applicant is requesting 1) a 52-foot variance from the 150-foot minimum spacing requirement, in order to allow a freestanding sign to be erected 98 feet from another freestanding sign; and 2) a 9-foot variance from the 10-foot minimum right-of-way setback requirement, in order to allow a 1-foot setback from the right-of-way.

Andreina Dávila-Quintero, Planner, presented background and staff's recommendation of denial of the requested variances. She indicated 41 notices were mailed, none were returned in favor and one was returned in opposition and no response from the University Park and Donaldson Terrace Neighborhood Association.

Charles Gottsman, applicant, stated there was an existing 15 by 15 foot sign when the owner signed the lease. He also stated the sign mysteriously disappeared. He further stated they are reducing the poles from three to one and setting the sign back a foot and half.

**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-11-048 closed.

**MOTION**

A motion was made by **Mr. Camargo**. In Case A-11-048, on property described as **823 Bandera Road**, also legally described as **Lots 2A, Block 33, NCB 9593**, be granted **1) a 52-foot variance from the 150-foot minimum spacing requirement, in order to allow a freestanding sign to be erected 98-feet from another freestanding sign and 2) a 9-foot variance from the 10-foot minimum right-of-way setback requirement, in order to allow a 1-foot setback from the right-of-way**. The variance is necessary because strict enforcement of this article would prohibit a reasonable opportunity to **locate signage on a new business that is coming in to San Antonio that will be located within this shopping center**. A strict enforcement of the sign regulations would result in **jeopardizing the existence of this new business that is coming into town and further the applicants representative has indicated to the Board of Adjustment and staff that in fact if granted the requested variance would remove two existing poles that exist on this property and would reduce a multi-tenant sign from that which is the size that is currently allowed to reducing that size sign face area by 25 percent. Also reducing the height from that which is allowed by the ordinance to something substantially less**. It is felt that the variance does not provide the applicant any special privilege that is not enjoyed by others in that **the signage along this portion of Bandera and Woodlawn has existed for a number years and there are a number of businesses in this shopping area which requires multiple signage and sign area to identify all of those businesses that currently exist**. The variance will not have a substantially impact on the neighboring properties in that **any residential development that exists in the area is far removed from the location of this proposed sign and to the rear of this shopping center that this signage advertises**. It is felt that part of the intent and purpose of the Sign Regulations is to avoid and eliminate sign clutter, and provide harmony among signage in the City. The applicant's representative has demonstrated to work towards that end by proposing to remove some existing signage that is no longer necessary and also to not construct signage that would meet the maximum allowance with the sign regulations but would propose to reduce both the height and size in an attempt to eliminate the sign clutter in this particular area. The motion was seconded by **Ms. Dutmer**.

**AYES: Camargo, Dutmer, Villyard, Rogers, Britton, Zuniga, Rodriguez, Ozuna, Gallagher**  
**NAY: Atkinson**

**THE VARIANCE WAS GRANTED.**

**CASE NO. A-11-049**

Applicant – Accenture  
Lot 5, Block 4, NCB 17246  
7050 Fairgrounds Parkway  
Zoned: “I-1 AHOD” General Industrial Airport Hazard Overlay District

The applicant is requesting a 1-foot variance from the 8-foot maximum fence height standard for Industrial Uses, in order to allow a 9-foot tall fence.

Jacob Floyd, Senior Planner, presented background and staff’s recommendation of denial of the requested variance. He indicated 8 notices were mailed, none were returned in favor and none were returned in opposition.

Mike Jansen, representative, stated this request will serve as security for the government outsourcing that is processed. He also stated there have several break-ins and this would provide security to the vehicles

**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-11-049 closed.

**MOTION**

A motion was made by **Mr. Camargo**. A motion was made by **Mr. Camargo**. In Case A-11-049, property known as **7050 Fairgrounds Parkway**, also legally described as **Lot 5, Block 4, NCB 17246**, I would move that the board grant a **1-foot variance from the 8-foot maximum fence height standard for Industrial Uses for the following reasons. Just judging from the notices that were sent to adjacent property owners and those returned it is felt that the variance is not contrary to the public interest in that a literal enforcement of the fence height standards would result in a situation that could hamper this particular business from bringing further job opportunities and further work onto this facility based on the security that is necessary in this particular area. The variance is in keeping with the spirit of the ordinance and only from this standpoint that developments that exists along this portion of Culebra have fencing that exceeds 6-feet, not sure that it goes to 9-foot, but you have Southwest research that occupies a large frontage along Culebra Road in this area and you have Northside Independent School District that has a large busing area that likewise has a similar type fencing. The other major development in this area is the City’s westside service center that is all cyclone fencing around the front without any landscaping. It is felt**

**that the development of the proposal in this particular case would not be out of character with the surrounding area** 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 **it would not authorize a use that is not allowed in the current zoning classification in that the existing use would continue to operate.** 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 **this is such a large existing development abutting other major uses in the area, that it is felt that it would hardly be noticed.** 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 **to that particular finding I would just refer back to the applicant's statements the need of security because of the high crime that exists in this area. Secondly the need to have fencing of this height that would potentially draw in other types of businesses that they deal in that require such security.** The motion was seconded by Ms. Rogers.

**AYES: Camargo, Rogers, Atkinson, Dutmer, Zuniga, Britton, Ozuna, Rodriguez, Gallagher**

**NAY: Villyard**

**THE VARIANCE WAS GRANTED.**

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**CASE NO. A-11-050**

Applicant – Mark Ambrose

Lot 14, NCB 13806

10644 North IH 35

Zoned: “I-1 IH-1 AHOD” General Industrial Northeast Gateway Corridor Airport Hazard Overlay District

The applicant is requesting 1) a 45.25-square-foot variance to the requirement of the “IH-1” Northeast Gateway Corridor Overlay District that digital displays not exceed twenty-five percent (25%) of the allowable sign area permitted, in order to allow a 120.25-square foot digital display; and 2) a 2-foot, 6-inch variance to the requirement of the “IH-1” Northeast Gateway Corridor Overlay District that multiple tenant signs not exceed a height of 35 feet, in order to allow a 37-foot, 6-inch tall sign.

Andreina Dávila-Quintero, Planner, presented background and staff's recommendation of denial of the requested variance. She indicated 9 notices were mailed, none were returned in favor and none were returned in opposition.

Larry Gottsman, representative, stated they are presenting a smaller multi-tenant than what is provided by code. He also stated they are allowed 300 square feet and they are proposing 270 square feet. He further stated this would be for safety and there are trees that would cover the sign if it was lower.

**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-11-050 closed.

**MOTION**

A motion was made by **Mr. Ozuna**. Re Appeal Case No **A-11-050**, a variance application for **Mark Ambrose**, subject property address is **10644 North IH-35**, property located on **Lot 14, NCB 13806**, situated again at **10644 North IH-35**, the variance request is for 1) a **45.25-square-foot variance to the requirement of the "IH-1" Northeast Gateway Corridor Overlay District that digital displays not exceed 25% of the allowable sign area permitted, in order to allow a 120.25-square foot digital display** and 2) a **2-foot, 6-inch variance to the requirement of the "IH-1" Northeast Gateway Corridor Overlay District that multiple tenant signs not exceed a height of 35 feet, in order to allow a 37-foot, 6-inch tall sign**. I move that the Board of Adjustment grant the applicant's request regarding Appeal No **A-11-050**, applicant 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 the variance will not be contrary to the public interest in that **the intent of the "IH-1" Northeast Gateway Corridor Overlay District sign standards is to establish consistency and uniformity in signage over time along the IH-35 corridor**. The requested variance in the district in accomplishes this goal of creating a more attractive, cohesive and safe environment by reducing visual chaos and distractions along public roadways. The applicant has provided testimony to us today to show that the adjoining signs are in general conformance with what they are proposing. An additional safety concern is that the digital display size would not provide any kind of visual distraction to motorists going by IH-35 and that a smaller sign would cause traffic to have to slow down or somehow read the text in which would create traffic safety issue. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **a literal enforcement of the maximum height and digital sign area requirements will result in undue hardship**. The subject property is uniquely influenced by oppressive conditions that would prevent visibility of a conforming 35-foot tall pole sign. The applicant provided testimony to us today about various obstructions to the sign, most notably trees that obstruct the visibility and also the location on IH-35 which creates a drive-by traffic which would not be able to see the sign or react with text if the size was any smaller or lower to the service elevation. The spirit of the ordinance is observed and substantial justice is done in that **the variances are in keeping with the spirit of the ordinance in that the signage that is proposed substantially complies with the overlay district**. The variance request is minor in regards to the signs that would be allowed in the district. 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 digital sign area variance request, if approved, will authorize the use of a sign that is prohibited within the "I-1 IH-1 AHOD" zoning district by the Northeast Gateway Corridor Overlay District and Sign Ordinance**. The variance that is sought today in my belief

**substantially complies with the requirements of the overlay district in that the variance request of 42.25 feet is not substantial in nature and conforms in majority with the requirements of the overlay 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 requested variances will not substantially injure the appropriate use of the adjacent conforming properties.** 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 **it is my belief that the unique conditions that exist on the property are the locational on IH-35 and the obstructions that are created by the trees that we learned and the ability of the motorists passing by to be able to read the text. That reading the signage, that any smaller signage would create a hazard to motorists driving by and that the variance request would provide a readable sign which would benefit the property and the property owner.** The motion was seconded by **Mr. Rodriguez.**

**AYES: Rodriguez, Atkinson, Zungia**

**NAY: Ozuna, Camargo, Villyard, Dutmer, Rogers, Britton, Gallagher**

**THE VARIANCE WAS NOT GRANTED.**

**Board members recessed for 5 minutes**

**CASE NO. A-11-051**

Applicant – John Britten  
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 13-foot, 1-inch variance from the 15-foot maximum setback required for on-premises signs in residential zoning districts.

Jacob Floyd, Senior Planner, presented background and staff’s recommendation of approval of the requested variance. He indicated 65 notices were mailed, one was returned in favor and none were returned in opposition and no response from North Castle Hills Neighborhood Association.

Sandy Jenkins, representative, stated they did receive approval from HDRC and due to time constraints they were not able to come before the board. She also stated this was the only thing to see of the park along NW Military. She further stated if the sign was set back, it would be settled back into the trees and would be difficult to see.

**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-11-051 closed.

**MOTION**

A motion was made by **Mr. Villyard**. In Case **A-11-051**, a variance application for a **13-foot 1-inch variance from the 15-foot minimum setback required for on-premises signs in residential zoning districts, in order to allow an on-premises sign 1-foot, 11-inches from the property line**, subject property described as legal description **P-10, ABS 124, NCB 11672**, the location is **8400 Northwest Military Highway**, the applicant is **the City of San Antonio, Parks and Recreation Department**. I move that the Board of Adjustment grant the applicants request for 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. According to Section 28-247 of Chapter 28: Signs and Billboards the variance to be granted must demonstrate 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 and topography. A denial of the variance would probably cause a cessation of legitimate, longstanding active commercial use of the property. **This property is difficult to find. It is part of an old dairy farm that has been there for many years and without the use of this sign I'm afraid that it would be neglected.** After seeking one or more of the findings we move that the granting of the variance **does not provide the applicant with a special privilege not enjoyed by other similarly situated or potential similar situations. This is unique in that it is a park property and the property with a very special privilege not enjoyed by similar situated property. The other property is residential development and commercial development. If granted the variance will allow the subject property to be more visible to the traveling public and respectful to the purpose of the park as a natural area. The variance will allow the park entrance to be visible in a manner equivalent to entrances of both commercial and the residential development not burdened by the preservation of a natural setting. The variance will not have a substantial adverse impact on neighboring properties. The variance will impact the neighborhood in a positive manner and is appropriate of the mid-point of the site's 2,900 linear feet of frontage along Northwest Military Highway and does not obstruct visibility. The granting of the variance will not substantially conflict with the stated purposes of this article in that the variance is in keeping with the public interest that the park entrance be visible and easily identifiable and that the natural setting of the park be maintained. The variance will allow for reasonable signage to be provided without unnecessary tree removal at a location visible to the traveling public.** The motion was seconded by **Ms. Dutmer**.

**AYES: Villyard, Dutmer, Britton, Rogers, Atkinson, Zuniga, Rodriguez, Ozuna, Gallagher**

**NAY: None**

**THE VARIANCE WAS GRANTED.**

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**CASE NO. A-11-052**

Applicant – Thomas Gibson

Lots 5, 6 and the East 30 feet of Lot 4, Block 3, NCB 3259

215 West Kings Highway

Zoned: “R-5 H AHOD” Residential Single-Family Monte Vista Historic District Airport Hazard Overlay District

The applicant is requesting a 6-foot variance from the 6-foot maximum fence height standard in rear yards, in order to allow a 12-foot tall fence in the rear yard.

Jacob Floyd, Senior Planner, presented background and staff’s recommendation of denial of the requested variance. He indicated 22 notices were mailed, 3 were returned in favor and one was returned in opposition and no response from the Monte Vista Historical Association.

John McDonald, representative, stated a five-year restoration of the house has just been finished. He also stated several of the houses have existing 14-foot wall characteristics and feels that this is part of the historical part of the house. He further stated they are working to conform to the existing architecture of the historic district. They are not asking for additional screening but merely asking to keep the house as it exists. The Monte Vista Historical Review Board and the San Antonio Historic Design Review board unanimously approved the request with a request of planting fig ivy along the wall because the existing wall had this ivy in the past.

**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-11-052 closed.

**MOTION**

A motion was made by **Ms. Rogers**. Re Appeal Case No **A-11-052**, a variance application for a **6-foot variance from the 6-foot maximum fence height standard in rear yards, in order to allow a 12-foot tall fence in the rear yard as per drawing submitted**. I move that the Board of Adjustment grant this application request Appeal No **A-11-052**, 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 the variance will not be contrary to the public interest in that **the variance is not contrary to the public interest as the proposed wall will no way detract from the character or appearance of the immediate area. Additionally, walls of similar height and appearance exist throughout the Monte Vista district**. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the literal enforcement of the fence height standards would result in unnecessary hardship because the fence needs to have a constant height for the length of it**. The appropriate use of the subject property in accordance with its zoning will not be designed without the requested variance. The site is characterized by exceptional topography in that the land becomes

separated causing the fence if not at a standard height to vary in height that would create unnecessary hardship in a single residence. The spirit of the ordinance is observed and substantial justice is done in that the variance is in keeping with the spirit of the ordinance and would not cause any substantial justice to be done. The purpose of a variance is to bring equity when the strict enforcement of the zoning regulations and this would cause undue hardship due to the property topography. 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 does not authorize the operation of any other use than those permitted in the "R-5 H AHOD" 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 variance will not substantially injure the appropriate use of adjacent conforming property nor alter the essential character of the district in which it is located. Fences and walls of similar height and appearance are found throughout Monte Vista and the HDRC has given their approval for this fence height. 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 the unique physical circumstances exist on this property is the topography which causes the fence to be at different heights. In addition to this the applicant has agreed to replant ivy on the wall to appear as the wall has existed for the prior twenty years. The motion was seconded by Mr. Camargo.

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

**NAY:** None

**THE VARIANCE WAS GRANTED.**

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#### **Sign Master Plan No. 11-007**

Andrew Perez, Sign Inspector, briefed Board Members on Sign Master Plan for The Parke – Revised, located at Loop 1604 and Potranco Road.

**Mr. Zuniga** made a motion to approve **Sign Master Plan No. 11-007** and was seconded by **Mr. Atkinson** and all members voted in the affirmative.

**THE SIGN MASTER PLAN WAS APPROVED.**

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#### **Approval of the June 20, 2011 Minutes**

The June 20, 2011 minutes were approved with all members voting in the affirmative

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There being no further discussion, meeting adjourned at 5:31 p.m.

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

DATE: 8-1-11

ATTESTED BY: Barlene Nelson DATE: 8/2/2011  
Executive Secretary