BOARD OF ADJUSTMENT
OFFICIAL MINUTES
July 16, 2012

Members Present:

Michael Gallagher
Andrew Ozuna
Frank Quijano
Edward Hardemon
Helen Dutmer
Jesse Zuniga
Mary Rogers
Mike Villyard
Gene Camargo
Paul Klein
Maria Cruz

Staff:
Andrew Spurgin, Planning Manager
Margaret Pahl, Senior Planner
Tony Felts, 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. Hardemon arrived at 1:07 p.m.

Mr. Rogers made a motion to move Case No. A-12-068 to end of the agenda and was seconded by Mr. Ozuna with all members voting in affirmative.

CASE NO. A-12-055A

Applicant – Hunter's Pond LLP
NCB 18098
51 vacant lots between 10318 & 10734 Goose Way
Zoned: "UDAHOD" Urban Development Airport Hazard Overlay District

The applicant is requesting for at least 70% of the single family housing units along a block face provide a front porch of at least 8 feet in depth along at least 50% of the front façade of the house in order to allow **1)** front porches at a depth of four feet and **2)** a reduction in the minimum porch width to a linear distance equal to 18% of the front facade

Margaret Pahl, Senior Planner, presented background and staff's recommendation of denial. She indicated 8 notices were mailed, none were returned in favor and one was returned in opposition.

Bobby Perez, representative, stated they are requesting to alleviate the request of the 8-foot requirement of the porch. He also stated the ordinance was approved ten years ago and today the level of demand does not meet the ordinance.

The following citizens appeared to speak:

Irene Hernandez, 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-12-055A closed.

MOTION

A motion was made by **Mr. Camargo**. I would like to move that in Case **A-12-055A,** the applicant being **Hunter's Pond, LLP, on 51 lots between 10318 & 10734 Goose Way**, legally described as **those lots being on NCB 18098, I would move that the request as submitted in items number one and two be denied and in lieu there of approve a variance for a 3-foot variance from an 8-foot minimum porch depth required that would allow porch depths to be a minimum of 5-feet and secondly that a variance from the required length on 50% of the front façade on 70% of the homes to allow a minimum width of the porch to be at 8-feet.** On findings of fact that the variance will not be contrary to the public interest, **I might say that there was an individual, a president of the homeowner's association that appeared and another individual that did not appeared to be opposed of the variance. There was a question and desired indicated by the individual that appeared, that porches are something that fit into the neighborhood that they would like to see. I'm saying that there is no evidence of contrary interest to the variance request. It is felt that the hardship was caused initially by the original property owner that went before the city council with the tax increment financing district and I assumed agreed to the urban development classification that was assigned to the property. Since then has moved on and decided to sell to another developer, that in fact finds it more feasible for them to be able to sell the product if they are some modifications to the urban development district. So I feel while the applicant is proposing to comply with a good portion, as been indicated, of the requirements of the UD district, the porch variance is a slight change or deviation from the overall requirements from the district.** The spirit of the ordinance is observed and substantial justice is done in that **single-family homes would be accomplished being proposed by the developer to hopefully ensure increased development in this subdivision that has for some years laid dormant after all the infrastructure has been installed and a great expense.** 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 modified variance comes close to meting the requirements of the UDC and close to the ecstatically developing something similar to that which has been developed on other lots.** 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 **are in fact that we are in an economic situation that we are in now, that we were not in when this subdivision and zoning district was originally created several years ago and therefore is my feeling that some assistance to the**

encouragement to continue this development as necessary. The motion was seconded by **Mr. Hardemon**.

AYES: Camargo, Hardemon, Klein, Dutmer, Cruz, Gallagher
NAYS: Zuniga, Villyard, Rogers, Quijano, Ozuna

THE VARIANCE WAS NOT GRANTED

CASE NO. A-12-064

Applicant – Nick Harris, Facility Solutions Group
Lot 12, Block 1, NCB 14747
18503 IH 10W
Zoned: "MPCD GC-1 MSAO-1 MLOD" Master Planned Community, Gateway Corridor, Military Sound Attenuation and Military Light Overlay Districts

The applicant is requesting for a 100-foot variance from the minimum 200-foot spacing fro free-standing signs to allow relocation of an existing monument sign located 100 feet from another free-standing sign.

Margaret Pahl, Senior Planner, presented background and staff's recommendation of approval. She indicated 6 notices were mailed, none was returned in favor and none were returned in opposition and no response from the Forest Creek Neighborhood Association.

Nicholas Harris, representative, stated McDonalds was one of the first tenants at the Rim and did comply with the regulations. He also stated McDonalds tried to come with several other solutions to accommodate the sign. He further stated

No citizen 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-12-064 closed.

MOTION

A motion was made **Ms. Rogers**. Re Appeal No. **A-12-064**, variance application for a **100-foot variance from the 200-foot minimum sign spacing standards as described on Table 339.01 of the Unified Development Code**, location **18503 IH 10W**, legal description **Lot 12 Block NCB 14747**, applicant **Nick Harris, Facility Solutions Group**, owner **McDonald's Real Estate Company**. I move that the Board of Adjustment grant the applicant's request as stated above. The variance is not contrary to the public interest in that the **public interest is a central theme used to justify government regulations; it refers to general welfare and common well-being of the population as a whole and the role of government in protecting that general welfare. While most local jurisdictions regulate signage in the interest of reducing visual clutter, confusion and distraction, it is also important to allow enough signage to help patrons locate each business. Therefore, a sign which cannot be seen is not in the public interest. A**

variance to allow visibility of the sign serves the public interest. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that the **literal enforcement of the ordinance would prevent the relocation of the sign, leaving it partially obstructed by the dumpster enclosure which is no fault of McDonald's. As properties are improved incrementally, it cannot always be anticipated where and how the improvements might impact a neighboring business. In this case, each business has frontage on the IH 10 and the internal Rim Drive. There is no obvious rear yard, nor an ideal spot to locate the dumpster. The applicant explained that McDonald's offered to finance relocation of the dumpster, but the restaurant refused. McDonald's sought other viable solutions prior to applying for the variance. They did numerous research of the visibility of the sign.** By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done in that the **UDC and the approved Sign Master Plan allow each business to have one free-standing sign. It is the additional requirements of the Gateway Corridor Overlay that specify the minimum distance between signs. According to the UDC, the purposes of the overlay district include to preserve, protect and enhance areas of high tourist and visitor visibility; to enhance the appearance and economic viability of corridors within established neighborhoods; and to reduce visual chaos and limit distractions along public roadways. The variance would allow the monument-type sign to be closer to the multi-tenant sign representing the Center, a different type of sign. This difference reduces the potential for a visual clutter impact resulting from the reduction in spacing between the signs. Therefore, the goals and spirit of the ordinance could be observed while still allowing the sign relocation.** 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 requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the "MPCD" 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 **new businesses locating within the Gateway Corridor Overlay have for the most part abided by the spacing requirement; only a few have requested a variance. In the most recent case, the Board of Adjustment approved a 22-foot reduction in spacing for the restaurant immediately to the south of the subject property.** 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 **applicant tried to find an alternative solution to the proposed reduction in spacing requested prior to filing the application. They have done extensive research on this area and has been determined the 28-foot drainage and utility easement precluded moving the sign toward the roadway or a shorter distance toward the multi-tenant sign. This easement is a unique circumstance that eliminates other alternative solutions which would not have required a variance.** The motion was seconded by **Mr. Zuniga.**

AYES: Rogers, Zuniga, Hardemon, Villyard, Klein, Camargo, Cruz, Quijano, Ozuna, Dutmer, Gallagher
NAYS: None

THE VARIANCE WAS GRANTED

Board members recessed for five minutes.

CASE NO. A-12-066

Applicant – George Flores, III
Lot 116, Block E, NCB 11543
437 Oak Knoll Dr
Zoned: "R-20 NCD-3 AHOD" Residential Single-Family Ingram Hills Neighborhood Conservation Airport Hazard Overlay District

The applicant is requesting for **1)** a 3-foot, 10-inch east side yard setback variance from the minimum 15-foot side yard setback in order to allow an 11-foot, 2-inch east side yard setback and **2)** a 9-foot, 10-inch west side yard setback variance from the minimum 15-foot side yard setback in order to allow a 4-foot 2-inch west side yard setback.

Tony Felts, Planner, presented background and staff's recommendation approval of an alternative variance of a 5-foot variance from the required 15-foot side yard setback. He indicated that there were 13 notices mailed, 1 returned in favor and 6 returned in opposition and the Ingram Hills Neighborhood Association is in support.

George Flores, II, applicant, stated he hired an architect in 2003 and wasn't able to get actually start construction until a few years later. When applying for permits, he found out that his property was in the NCD district. He also stated when he bought property it was not in the NCD. He further stated the NCD district makes his lot a substandard lot.

The following citizen(s) appeared to speak:

Michael Ordaz, citizen, spoke in opposition.

David Sonnen, 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-12-066 closed.

MOTION

A motion was made **Mr. Ozuna**. Re Appeal No. **A-12-066,** variance application for **437 Oak Knoll Dr**, subject property is **Lot 116, Block E, NCB 11543**, situated again at **437 Oak Knoll Dr**, the applicant being **George Flores, III**. The variance request is for **1) a 5-foot east side**

yard setback variance and 2) a 5-foot west side yard set back variance to allow construction of a new single-family dwelling. I move that the Board of Adjustment grant the applicant's request regarding Appeal No. **A-12-066**, 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 Ingram Hills Neighborhood NCD Design Standards are intended to maintain the character of the neighborhood in order to preserve existing development patterns, namely the large lot, rural estate character of the area. The applicant has provided testimony that the configuration of the lot is a hardship in that he is trying to situate a single-family house. The compromise variance setback of 5-foot provides for the public interest in providing the rural character of the neighborhood yet provides the applicant the ability to afford the lot for the development of a single-family as he first intended to use the property for.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the property was purchased when the property was the previously zoning allowed for the development of a single-family as the applicant intended. Due to the delay in construction, the zoning of the property was changed which the applicant had no part, the city changed the zoning which rendered the plans and the use of the property which necessitated the variance request that has come before us today.** The spirit of the ordinance is observed and substantial justice is done in that **the variance would allow for the development of the property, yet still maintain the rural setback feeling of the neighborhood that designed as part of the NCD design standards for the neighborhood.** 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 existing variance will remain, those uses specifically permitted in the R-20 NCD-3 AHOD will remain, no changes to the zoning is requested.** 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 change the appropriate use of adjoining conforming properties or alter the character of the property. The applicant provided testimony that the dwellings to the east have a 35-foot distance between properties and a 65-foot distance between the property on the other side which provides for that rural character of the neighborhood.** 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 are circumstances unique to the property that would necessitate the allowance of the smaller setback – namely the fact that the lot is of substandard width and size to comply with "R-20" regulations in the NCD. The unique circumstances are such that the variance request is warranted.** The motion was seconded by **Mr. Camargo**.

AYES: Ozuna, Camargo, Hardemon, Villyard, Dutmer, Rogers, Klein, Zuniga, Cruz, Quijano, Gallagher
NAYS: None

THE VARIANCE WAS GRANTED.

CASE NO. A-12-067

Applicant – Maria Arciniega
Lot 16 Block 12, NCB 10175
354 Wayside Drive
Zoned: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District

The applicant is requesting 1-foot 2-inch variance from the maximum 4-foot fence height restriction in the front yard, to allow an existing 5-foot 2-inch wrought iron fence.

Margaret Pahl, Senior Planner, presented background and staff's recommendation denial of the variance. She indicated that there were 25 notices mailed, one was returned in favor and none were returned in opposition.

Margaret Arciniega, owner, stated she hired a contractor and assumed he would obtain the necessary permits and construct the fence to city regulations. She also stated they were replacing an existing fence that was knocked down by a vehicle involved in a car accident.

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-12-067 closed.

MOTION

A motion was made **Mr. Camargo**. In Case No **A-12-067**, the request of **Maria Arciniega**, at **354 Wayside Drive**, property legally described as **Lot 16 Block 12 NCB 10175**. I would recommend that the variance which is being requested by the applicant for a variance to **authorize an existing 5-foot 10-inch wrought iron fence in the front yard be granted.** Specifically, we find that such variance will not be contrary to the public interest in that **I did not see any opposition to this request. The only non complying portion of the fence is that which is on the Wayside Drive portion and the east side property line behind the bus bench that we saw earlier on the screen.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **it is this member's opinion that a literal enforcement of the ordinance would not necessarily offer the opportunity for security that a 5-foot fence shown on the screen allows.** The spirit of the ordinance is observed and substantial justice is done in that **this board has granted numerous variances and exceptions but this is a variance request for similar properties that have had incidents that occurred on the property that forced the individuals of property owners to take necessary action to give protection to their property.** 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 is felt that variance will not substantially injure the use of any adjoining conforming property.** 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 **those circumstances being that the applicant felt that they were hiring a legitimate licensed well-advertised contractor and relied on his knowledge to take the necessary steps to insure that this work was properly done. It is my general feeling that in looking at the slide that you have before you that certainly the applicant's request to keep the wrought iron fence does not impose or take away from anything of this neighborhood. The issue of the spacing on variance request which we have had in the past has not come out, it does come up when we have an exception and I would make to sure to say that we have granted various variances to fences over 4-foot height, which the spacing of the bars has been lessened and the 5 ½ inch spacing which apparently the Fire Department did not express any concern on this request.** The motion was seconded by **Ms. Rogers**.

AYES: Camargo, Rogers, Klein, Villyard, Hardemon, Zuniga, Dutmer, Cruz, Quijano, Ozuna, Gallagher
NAYS: None

THE VARIANCE WAS GRANTED

CASE NO. A-12-071

Applicant – Dora A. Reyes
Lot 7, Block 3, NCB 6002
219 St John Street
Zoned: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District

The applicant is requesting for **1)** a 5-foot north side yard setback variance from the minimum 5-foot side yard setback to allow a primary structure on the side property line and **2)** an 8-foot 3-inch rear yard setback variance from the minimum 20-foot rear yard setback to allow a primary structure 1-foot, 9-inches from the rear property line.

Tony Felts, Planner, presented background and staff's recommendation approval of rear yard setback variance request and denial of the north side yard setback variance request. He indicated that there were 28 notices mailed, none were returned in favor and 3 were returned in opposition and no response from Dignowity Hill Neighborhood Association.

Edwina Scinta, representative, stated the house burned down in December of 2010 and was asked to take over the project this year. She also stated the owner did not know that the 5-feet of the unplatted lot that was not usable. She also stated CPS came out to set up a pole for the utilities services and asked them for a release of the services. The electrician who pulled the permit was informed by the City of San Antonio that the rear building did not exist so the permit was denied.

The following citizen(s) appeared to speak:

Rudy Reyes, citizen, spoke in favor.

David Sonnen, citizen, spoke in opposition.

Estela H Salazar, 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-12-071 closed.

MOTION

A motion was made **Mr. Ozuna**. Appeal No. **A-12-071**, variance application for **219 St. John Street**, property description is **Lot 7, Block 3, NCB 6002**, situated again at **219 St. John Street**, the applicant request is for **1) a 5-foot north side yard setback variance and 2) an 8-foot, 3-inch rear yard setback variance**. I move that the Board of Adjustment grant the applicant's request regarding Appeal No. **A-12-071**, 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 **yard setbacks are required in order to maintain orderly development and ensure access, light, and air availability. In this case, the structure is existing and has been previously used as an accessory dwelling. The northern side yard setback variance of five feet is mitigated by the fact that the applicant owns the south five feet of the adjacent lot. Though not platted, these 5-feet essentially functions as a side yard. Regarding the rear yard setback variance, the existing 20-foot open alley to the rear of the structure provides a necessary separation from the property to the rear of the subject property.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the lots in the area are fairly uniform in their layout. The north side yard variance can be remedied by replatting possibly and the south five feet of the adjacent lot that the applicant already owns. The rear yard setback variance is required because of the location of the existing structure.** The spirit of the ordinance is observed and substantial justice is done in that **the spirit of the ordinance will be observed by granting the north side yard variance, because there is not necessarily a viable alternative that the applicant is proposing.** 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-4 AHOD (Residential Single-Family) 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 side yard variance request is again mitigated by strip of land owned by the applicant which provides a buffer equal.** 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 **lots in the area are fairly uniform, and the subject property is not unique except that it now contains an accessory structure where no primary structure exists. The applicant is aware that replatting the lot would alleviate the side yard variance request; however the applicant is concerned with the cost of such replatting.** The motion was seconded by **Ms. Rogers**.

AYES: Rogers, Dutmer, Camargo, Villyard
NAYS: Ozuna, Klein, Cruz, Zuniga, Quijano, Hardemon, Gallagher

THE VARIANCE WAS NOT GRANTED

CASE NO. A-12-072

Applicant – Mike Kelleher
Lot 8, Block 2, NCB 720
233 Leigh Street
Zoned: "RM-4 H" Mixed Residential Historic District

The applicant is requesting for a 32-square foot variance from the 4,000 square foot minimum lot area requirement to allow two 3,968 square foot lots at 233 Leigh Street.

Margaret Pahl, Senior Planner, presented background and staff's recommendation approval of the requested variance. She indicated that there were 24 notices mailed, none were returned in favor and one was returned in opposition and no response from the Lavaca Neighborhood Association.

Xavier Torres, representative, stated they met the minimum lot size when they went through platting until the right of way dedication was required by the City of San Antonio. He also stated they have approval from historic. He further stated they rear setback of the existing house will be met.

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-12-072 closed.

MOTION

A motion was made **Mr. Villyard**. In Case No. **A-12-072**, subject property described as **Lot 8 Block 2 NCB 720**, also known as **233 Leigh Street**, applicant is **Mike Kelleher.** I move that the Board of Adjustment grant the applicant's request regarding this appeal, 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 of this variance is for a **thirty-two square foot variance from the 4,000 square foot minimum lot size for each of the two parcels, located in**

the "RM-4H" zoning district. Specifically, we find that such variance will not be contrary to the public interest in that **this variance would allow the applicant to create a new building lot in a poplar downtown residential neighborhood allowing investment and revitalization.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **it may create an unnecessary hardship by preventing the owner from being able to subdivide leaving an out of place large lot.** The spirit of the ordinance is observed and substantial justice is done in that **allowing the creation of an infill parcel similar in size with the others on the same block face. Any new construction will be subject to an approval by the Office of Historic Preservation.** The motion was seconded by **Mr. Quijano.**

AYES: Villyard, Quijano, Camargo, Hardemon, Rogers, Dutmer, Zuniga, Klein, Ozuna, Cruz, Gallagher
NAYS: None

THE VARIANCE WAS GRANTED

CASE NO. A-12-068

Applicant – Jim Poteet
NW ½ of Lot 9 and Lot 14, Block 1, NCB 742
322 and 326 Washington Street
Zoned: "RM-4 H RIO-4 AHOD" Mixed Residential Historic River Improvement Overlay Airport Hazard Overlay District

The applicant is requesting for **1)** a 5-foot southwest side yard setback variance at 322 Washington, to allow a carport to abut the property line, **2)** a 5-foot northeast side yard setback variance at 326 Washington, to allow a carport to abut the property line, and **3)** a 3-foot side yard wall height variance between 322 and 326 Washington, to allow a 9-foot tall fire separation wall on the shared property line.

Tony Felts, Senior Planner, presented background and staff's recommendation approval of the variance. She indicated that there were 23 notices mailed, 2 were returned in favor and none were returned in opposition and no response from the King William Neighborhood Association.

Jim Poteet, applicant, stated they replatted the three lots into one lot. He also stated the adjacent owner agreed to have a wall built to provide fire protection for the carports. He further stated the lot line will be moved during the replatting process.

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-12-068 closed.

MOTION

A motion was made **Mr. Klein**. Case No. **A-12-068**, the applicant is **Jim Poteet**, the owner is **Charles C. Butt and Patrick Condon**, the legal description is the **NW ½ of Lot 9 and Lot 14, Block 1, NCB 742**, encompassing two street addresses of **322 and 326 Washington Street**, the zoning is **"RM-4 H RIO-4 AHOD" Mixed Residential Historic River Improvement Overlay Airport Hazard Overlay District**, the applicant is requesting three variances that are covered in this motion which are **1) a 5-foot southwest side yard setback at 322 Washington, 2) a 5-foot northeast side yard setback variance at 326 Washington, and 3) a 3-foot side yard wall height variance between 322 and 326 Washington to allow the construction of a covered carport to the property line on both properties, with a nine-foot masonry wall separating the two structure.** Specifically, we find that such variance will not be contrary to the public interest in that **this case is unique in that two property owners are joining together to request the variance to create zero lot line structures for the two adjoining properties up to a common wall. From a public safety standpoint, Washington Street terminates at this block, the only property owners on the block are the owners of the subject properties. I personally drove in this terminus of Washington Street and definitely noticed that that was to be the case.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the applicant has stated that there was in the course of the development and replatting of these properties, that there was a nominally that was discovered in the platting and in the interest of clearing up wandering property lines that the owners of the two properties are cooperating to clear this up from a legal prospective as well as proposing the variances, which are now requested.** The spirit of the ordinance is observed and substantial justice is done in that **setbacks and wall heights regulations are required in order to maintain orderly development and ensure access, light, and air availability. In this particular instance the two requested carports are actually physically separated from one another slightly on the lot lines as compared to being contiguous across the lot line. That does tend to break up the mess of the proposed development. As such, the firewall is treated as a fence for regulatory purposes. It is of sufficient height to ensure the usefulness of the carports and it does provide adequate fire separation. According to the information that has been submitted and has been made a part of the record, has taken care to ensure that the stormwater drains will not adversely affect either property. With the information that we have in place, we can be assured that adequate protections are in place for both homeowners and the public at large.** 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 property will remain as in the R-4 AHOD single-family zoning. There is no change to that requested nor included as part of this motion.** 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 **again to restate that these are two property owners that have come together to make this request. This request is taking place within the King William Historic district which is commonly known to be under great scrutiny when changes are proposed in King William. This project has been reviewed and approved by HDRC and is a major fact or finding in this recommendation for approval.** 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 as previously stated and as we have seen in other cases it is common in the King William Historic District to find zero lot line structures. Because both applicants propose to construct the structures to the property line, the common wall must be a fire rated wall. The 6-foot wall that is existing will not suffice for the required fire resistance. The property line encroachment issue already exists, it was discovered in a replat and the correction of the property line encroachment and platting of the properties is preferable to having residences on non platted lots.** The motion was seconded by **Ms. Dutmer**.

AYES: Klein, Dutmer, Rogers, Hardemon, Camargo, Cruz, Villyard, Quijano, Zuniga, Ozuna, Gallagher
NAYS: None

THE VARIANCE WAS GRANTED.

Approval of the Minutes

The June 25, 2012 minutes were approved with all members voting in affirmative

There being no further discussion, meeting adjourned at 5:18 pm.

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

DATE: 8-6-12

ATTESTED BY: _____ DATE: 8-7-12
Executive Secretary