

**BOARD OF ADJUSTMENT  
OFFICIAL MINUTES  
July 19, 2010**

Members Present:

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

Staff:

Christopher Looney, Interim Asst. Director  
Andrew Spurgin, AICP, Planning Manager  
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. Hardemon, arrived at 1:02 p.m.

Mr. Zuniga made a motion to move Case No. A-10-046 to the end of the agenda. Mr. Klein seconded it with all members voting in the affirmative.

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**CASE NO. A-10-039**

Applicant – Cynthia Neal  
Lot 15, Block 5, NCB 10186  
103 Gazel Street  
Zoned: “R-4 AHOD” Residential Single-Family Airport Hazard Overlay District

The applicant is requesting a Special Exception to allow a one operator beauty/barber shop.

Jacob Floyd, Planner, presented background and staff’s recommendation of approval of the requested Special Exception. He indicated 26 notices were mailed, 6 were returned in favor and none were returned in opposition and the Dellview Area Neighborhood Association is in favor.

Cynthia Neal, applicant, stated she only has clients by appointment and limits it to one to two clients at a time. She also stated she only operates 30 hours of week. She further stated she has been doing this for many years and it allows her to volunteer at school.

### **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-10-039 closed.

### **Motion**

A motion was made by **Rogers**. Re Appeal **A-10-039**, application for **a special exception to allow a one-operator beauty or barber shop**, subject description **Lot 15, Block 5, NCB 10186**, address **103 Gazel Street**, the applicant being **Cynthia Neal**, zoning is **“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District**. I move that the Board of Adjustment grant the applicant’s request regarding Appeal No **A-10-039**, application for a Special Exception for the subject property as described previously, because the testimony and evidence presented to us and the facts that we have determined show that this Special Exception meets the requirements listed in UDC 35-399.01. Specifically we find that the following conditions have been satisfied. The special exception will in harmony with the spirit and purpose of the chapter in that **the requested special exception is in harmony with the spirit and purpose of this chapter in that the existing one-operator beauty/barbershop follows the specified criteria established in Section 35-399.01 of the UCC**. The public welfare and convenience will be substantially served in that **the requested special exception will further serve the public welfare in that this beauty/barbershop has continuously operated within the parameters set forth by Section 35-399.01 and has served as a public convenience within a residential area**. There are no negative comments on all of the responses received regarding this beauty shop. The neighboring property will not be substantially injured by such proposed use in that **this will not alter the use of the property for which the exception is sought**. The primary use of the property will remain a single-family residence and it is obvious from the pictures that the beauty shop does not in any way as a detriment to the neighborhood. The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought in that **it does not appear that the granting of the special exception will alter the essential character of the district in which the subject property is located in that the existing beauty/barbershop has and will remain confined to 25% or less of the gross floor area of in the primary residence**. Additionally the neighborhood has come in with the responses being very positive about Ms. Neal. A couple of them even saying what a great asset she has been to the neighborhood, using the word even sweet so she must be extremely liked and speaks well of her character. The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district in that **the purpose of this district is to promote the health, safety, morals, or general welfare**. The granting of this exception will not weaken this in any way, nor will it weaken the regulations established for this district. The hours of operation for this shop will be 9 to 3 on Monday, 9 to 6 on Wednesday, 9 to 11 on Thursday, 8 to 3 on Friday, 8 to 2 on Saturday and closed Tuesdays and Sundays.

**Weekly proposed hours are a total of 30. The duration of this application will be for four years. The motion was seconded by Mr. Hardemon.**

**AYES: Rogers, Hardemon, Camargo, Dutmer, Villyard, Klein, Zuniga, Cruz, Ozuna, Moffat, Gallagher**

**NAY: None**

**THE SPECIAL EXCEPTION WAS GRANTED.**

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**CASE NO. A-10-040**

Applicant – Staglik Properties

Lot 7, Block 4, NCB 2154

524 Delgado Street

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

The applicant is requesting a 20-foot variance from the requirement that a 30-foot side setback be maintained in "I-1" zoning districts when abutting a residential use or zoning district, in order to allow a structure 10 feet from the westside property line.

Jacob Floyd, Planner, presented background and staff's recommendation of denial of the requested variance. He indicated 34 notices were mailed, 5 were returned in favor and one was returned in opposition and response from the Gardendale Neighborhood Association.

Andrew Guerrero, representative, stated this new structure would strictly be used for warehousing of industrial electrical motors. He also stated there will be no storage of any flammable material. He further stated the fence along Delgado would be security purposes.

**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-10-040 closed.

**MOTION**

A motion was made by **Mr. Klein**. Re Appeal Case No **A-10-040**, the variance application is for a **20-foot variance from the 30-foot side setback requirement of the "I-1" zoning district when abutting a residential use or zoning district, in order to allow a structure 10 feet from the west property line**, subject property is described as **Lot 7, Block 4, NCB 2154**, the zoning is **"I-1 AHOD" General Industrial Airport Hazard Overlay District**, property is situated at **524 Delgado Street**, the applicant is **Staglik Properties, LLC**. I move that the Board of Adjustment grant the applicant's request in 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. Specifically we find that such variance will not be contrary to the public interest in

that the applicant has contacted and has spoken directly with adjoining land owner who is in complete harmony with the proposed development. Further existing "I-1" development has been in place on Delgado Street since at least 1978 and could be considered a predominant use in the particular area. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that the existing lot is approximately 56-foot wide from information that has been submitted to the board, it was rezoned from "R-4" to "I-1" in 2010 resulting in a 30-foot side setback that would reduce the usable area of the property to 24-feet which I believe is a hinderance on the property itself. The spirit of the ordinance is observed and substantial justice is done in that the proposed building expansion would be an addition to an existing well maintained business in the area. It would be used strictly for warehousing not for manufacturing. There would be no openings on the westside nor would any lights spillage from the building addition to the adjoining neighbor. 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 warehouse use is appropriate for "I-1" 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 property is and as stated previously predominantly "I-1" industrial use district with very scattered, very limited use of "R-4". 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 previously mentioned the existing lot 56-foot wide lot was rezoned as "I-1" placing a 30-foot setback on a 56-foot wide lot is an inherent deficiency that goes with the property and is not the fault of the owner. The applicant and the applicant's representatives themselves stated that there would be just warehousing no manufacturing, not outside storage, and a solid wall would be provided on the west side of the building. The motion was seconded by Mr. Camargo.

**AYES:** Klein, Camargo, Dutmer, Cruz, Ozuna, Gallagher

**NAY:** Villyard, Moffat, Zuniga, Rogers, Hardemon

**THE VARIANCE WAS NOT GRANTED.**

#### **CASE NO. A-10-041**

Applicant – Paul Young, Gunn Automotive Group

Lot 5, Block 3, NCB 13596

750 North East Loop 410

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

The applicant is requesting a 2-foot variance from the requirement that fences in side and rear-yards not exceed 6 feet in height, in order to build an 8-foot tall solid screen fence along the rear property lines.

Jacob Floyd, Planner, presented background and staff's recommendation of denial of the requested variance. He indicated 18 notices were mailed, 1 was returned in favor and none were returned in opposition.

Gary Smith, representative, stated the owner is planning to demolish the collision center and build a new Nissan dealership with full automotive services. He also stated the owner does not want lose the security of the current 8-foot fence but just want to have a nicer looking fence without the razor wire on the top of the fence. He further stated the new fence would provide greater noise abatement to the surrounding apartments, certainly more visual appealing, and provide the security the dealership would need.

**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-10-041 closed.

**MOTION**

A motion was made by **Mr. Ozuna**. Re Appeal Case No **A-10-041**, variance application for **Paul Young Gunn Automotive Group**, variance application for **750 North East Loop 410**, subject property description **Lot 5, Block 3, NCB 13596**, again situated at **750 North East Loop 410**, the applicant again being **Paul Young Automotive Group**, the variance request is for a **2-foot variance from the requirement that fences in side and rear-yards not exceed 6 feet in height, in order to build an 8-foot tall solid screen fence along the rear property lines**. I move that the Board of Adjustment grant the applicant's request regarding appeal No **A-10-041**, 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 proposed fence would add a measure of separation and safety to the automotive operations from the adjoining multi-family project**. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **again the request is for the 8-foot fence in order to replace an existing 6-foot fence with a razor wire which again the applicant is requesting for safety, for noise abatement, and for overall ecstatic to separate the operations from the adjoining multi-family**. The spirit of the ordinance is observed and substantial justice is done in that **it does not appear that the granting of the variance would not do injustice the spirit of the Unified Development Code in that the existing operations of the property will remain**. 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 proposed request will not exchange the existing "C-3 AHOD" General Commercial Airport Hazard Overlay District zoning in that the owner is afforded**. 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 the granting of the variance will not injure the appropriate use of the adjoining conforming property nor alter the essential character of the district in which the subject property is located**. The current fence has

**been in existence for a number of years and several fences of similar height are presented in adjacent industrial districts.** 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 property owner is not due to unique circumstances existing on the property but rather due to the concern that a fence of height permitted by right would not provide the level of security that the applicant is seeking for this property and that there are needing a security of buffer, a security between the adjacent multi-family and the operations of the automotive group.** The motion was seconded by Ms. Rogers.

**AYES: Ozuna, Rogers, Dutmer, Camargo, Cruz, Villyard, Ozuna, Klein, Hardemon, Gallagher**

**NAY: Moffat**

**THE VARIANCE WAS GRANTED.**

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**CASE NO. A-10-042**

Applicant – Hill Country Bakery  
Lot 14, NCB 10125  
122 Stribling Street  
Zoned: “I-1 AHOD” General Industrial Airport Hazard Overlay District

The applicant is requesting a 3-foot 11-inch variance from the requirement that a minimum 30-foot front setback be maintained in “I-1” zoning districts, in order to erect a structure 26 feet 1 inch from the front property line.

Jacob Floyd, Planner, presented background and staff’s recommendation of approval of the requested variance. He indicated 16 notices were mailed, 4 were returned in favor and none were returned in opposition and response from the Collins Garden Neighborhood Association.

Kyle Tostenson, architect, stated the reason for this variance is because the original plat is not parallel to the street. He also stated the way the plant is laid out with equipment it is impossible to get the 4-foot offset because the room that is facing Stribling needs to align with the plant and existing building. He further stated the plant is almost unusable if the variance is not granted because of the way the equipment needs to work.

**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-10-042 closed.

**MOTION**

A motion was made by **Mr. Villyard**. Re Appeal No **A-10-042**, variance application for a variance **for a 3-foot 11-inches from the 30-foot front setback requirement of the "I-1" zoning district, to allow a structure 26 feet 1 inch from the front property line**, the applicant is **Hill Country Bakery**, the property is located at **122 Stribling Street**, legal description **Lot 14, NCB 10125**. I move that the Board of Adjustment grant the applicants request regarding the appeal **A-10-042**, 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 proposed addition would be in line with the existing building and would be screened from view by existing landscaping. In addition, the layout of the building, the construction of the building with the mechanical rooms and so forth would preclude a different plan. It would also have a minimal impact on the side.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **it is along with the siding of the building in conformity with the setbacks would not allow as we said an efficient operation of the additional proposed baking lines. It would meet the setback, it would not be able to perform as required and it would make an existing mechanical room inaccessible.** The spirit of the ordinance is observed and substantial justice is done in that **the granting of the variance would be in keeping with the spirit of the ordinance and would do justice to the intent of the setback requirement, as the variance requested is minor in scale and the minimum necessary to allow the reasonable utilization of the subject property.** 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 the variance will not authorize the operation of a use other than those specifically authorized in the "I-1 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 **it will continue to the established building line.** 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 property owner is not due to the somewhat unique layout of the subject property, as it is characterized by fronts of both Stribling and South Flores Streets. This condition is not commonly experienced by similar properties in the district and is not merely financial in nature, as the reasonable use of the property will be denied through the literal enforcement of the setback requirement.** The motion was seconded by **Mr. Zuniga**.

**AYES: Villyard, Zuniga, Hardemon, Rogers, Dutmer, Camargo, Moffat, Klein, Cruz, Ozuna, Gallagher**

**NAY: None**

**THE VARIANCE WAS GRANTED.**



**Board members took a 10-minute recess.**

**Mr. Zuniga, made a motion to put Case No. A-10-040 back in order to next case. Mr. Klein seconded the motion with all members voting in the affirmative.**

**CASE NO. A-10-046**

Applicant – Edgar Dodson  
Lot 5, Block 8, NCB 15698  
524 Delgado Street  
Zoned: “R-6 AHOD” Residential Single-Family Airport Hazard Overlay District

The applicant is requesting a special exception to relocate a structure from 2432 Southwest Loop 410 to 4703 Erin Boulevard.

Jacob Floyd, Planner, presented background and staff’s recommendation of approval of the requested special exception. He indicated 29 notices were mailed, none were returned in favor and 4 were returned in opposition.

Edgar Dodson, applicant, stated the building is a shell with new roofing, replaced the exterior siding, new windows, new doors, and ready to be remodeled and redone with new materials. He also stated this structure is being put way back in the property because of some large trees that are in the front which would make it difficult to put a large house on the lot. The original house that was on lot was on the back end of the property and the trees were planted in the front. He further stated there is enough room for parking off street.

**The following citizens appeared to speak:**

Rebecca Sosa, 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-10-046 closed.

**MOTION**

A motion was made by **Mr. Hardemon**. Appeal No **A-10-046, 4703 Erin Boulevard, special exception for relocation of structure, Lot 5, Block 8, NCB 15698**, applicant **Edgar Dodson**. I move that the Board of Adjustment grant the applicants request regarding Appeal No. **A-10-046**, application for a special exception to the subject property as described above, because the testimony and evidence presented to us and the facts that we have determined show that this Special Exception meets the requirements listed in UD 35-399.03. Specifically we find that the following conditions have been satisfied. The special exception will be in harmony with the spirit and purpose of the chapter in that **the granting of the special exception will be in harmony with the spirit and purpose of the chapter. The applicant is proposing to relocate**

**a structure to a vacant lot and intends to upgrade the house to meet city code.** The public welfare and convenience will be substantially served in that **the public welfare and convenience will be substantially served.** The structure proposed to be relocated is to be used as a single-family residence and populate an undeveloped parcel with a single-family residential structure. The neighboring property will not be substantially injured by such proposed use in that **the neighboring property will not be substantially injured by the proposed use, as the use proposed is single-family residential.** The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought in that **the special exception will not alter the essential character of the district in which it is sought as the single-family residential use is consistent with the predominant character of the district.** The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district in that **the special exception will not weaken the general purpose of the “R-6” zoning district.** The Land Use Plan calls for Low Density Residential development of this parcel. Additionally, the structure proposed to be relocated is similar in style to those existing along Erin Boulevard. As a condition to be a single-family residence with a front porch of at least 8-foot wide which would it give more of a house appearance and would be less objectionable to the neighbors. The motion was seconded by Ms. Dutmer.

**AYES: Hardemon, Dutmer, Camargo, Klein, Villyard, Cruz, Zuniga, Moffat, Rogers, Ozuna, Gallagher**

**NAY: None**

**THE SPECIAL EXCEPTION WAS GRANTED.**

**Mr. Hardemon departed at 3:20 p.m.**

**CASE NO. A-10-047**

Applicant – Vernon W. Moehle

Lot 35, Block 8, NCB 14301

5307 Silvertip Drive

Zoned: “NP-8 NCD-3 AHOD” Neighborhood Preservation Ingram Hills Neighborhood Conservation Airport Hazard Overlay District

The applicant is requesting 1) a 4-foot variance from the 10-foot side setback requirement of the “NCD-3” overlay district, in order to allow an addition 6 feet from the west side property line and 2) a 0.694 percent variance from the 35 percent maximum impervious cover requirement of the “NCD-3” overlay district, in order to allow 35.694 percent impervious cover.

Jacob Floyd, Planner, presented background and staff’s recommendation of approval of the requested variance. He indicated 30 notices were mailed, 4 were returned in favor and none were returned in opposition and Ingram Hills Neighborhood Association is in favor.

Vernon Moehle, applicant, stated the purpose for this addition is because of his wife having severe health conditions. He also stated his wife is in an electric wheelchair which is impossible to maneuver around the existing living area. He further stated the neighborhood association supports his decision.

**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-10-047 closed.

**MOTION**

A motion was made by **Mr. Camargo**. I would like to propose that the Board of Adjustment approve a variance to the applicant **Vernon W. Moehle**, on **Lot 35, Block 8, NCB 14301**, also known as **5307 Silvertip Drive**, a **4-foot variance from the 10-foot side yard setback requirement of the "NCD-3" overlay district, in order to allow the applicant 6 feet from the west property line and also a 0.694 percent variance from the 35 percent maximum impervious cover requirement of the "NCD-3" overlay district, in order to allow 35.694 percent impervious cover**. The granting of this variance is not contrary to the public interest in **from the notices mailed there were none returned in opposition**. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the special conditions in this particular case is the fact that this particular property which was constructed around the 70's or so was constructed in accordance with regulations that existed at the time which would have allowed the proposed construction that the applicant is seeking**. I do not know whether the applicant participated in any of the hearings in placement of this property into a neighborhood conservation district or not. **But it is this members feeling that perhaps many of the property owners in this area were not aware of the burden that are placing on already existing property by agreeing to this classification**. The granting of variance, the spirit of the ordinance will be observed and substantial justice will be done in that **the granting of the variances would observe the spirit of the ordinance and would do substantial justice, and the subject property was made nonconforming by the addition of the City of San Antonio and the proposed additions will maintain the side setback typical of this block**. 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 specifically authorized in the "NP-8 NCD-3" 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 etc. in that the additions that are proposed by the applicant in fact are more than norm and in character with the surrounding area in this particular 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 **I think this is one of the most important findings of fact it has been proven that this is not a self-created situation that was created by the owner of the property that has resided on the premises**

since 1972 and now due to as mentioned earlier, rezoning of this area and others, has placed him in this situation that he must come before this board and pay a substantial fee to justify the construction that he is proposing. The motion was seconded by Ms. Cruz.

**AYES:** Camargo, Cruz, Villayrd, Klein, Rogers, Moffat, Zuniga, Dutmer, Ozuna, Gallagher

**NAY:** None

**THE VARIANCES WERE GRANTED.**

#### **CASE NO. A-10-049**

Applicant – Emilio Gonzalez

Lot 5, Block 4, NCB 9673

134 Laurelwood Drive

Zoned: “R-4 AHOD” Residential Single-Family Airport Hazard Overlay District

The applicant is requesting 1) an 8-inch variance from the 5-foot requirement of the “R-4” zoning district, in order to allow an accessory dwelling unit 4 feet 4 inches from the east side property line and 2) a 178.2 square foot variance from the requirement that accessory dwelling units not exceed 40 percent of the footprint of the principle structure, in order to allow an accessory dwelling unit with a footprint of 667 square feet.

Jacob Floyd, Planner, presented background and staff’s recommendation of denial of the requested variance. He indicated 32 notices were mailed, 2 were returned in favor and one was returned in opposition and no response from the North Central Neighborhood Association.

Cynthia Campos, representative, stated the garage was already existing when the owner bought the property five years ago and never made the it bigger or smaller. He just remodeled the inside the garage to make livable for a family member. He further stated

**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-10-049 closed.

#### **MOTION**

A motion was made by **Mr. Camargo**. I would move that the board in Case No. **A-10-049**, the request of **Emilio Gonzalez**, on property legally known as **Lot 5, Block 4, NCB 9673**, also known as **134 Laurelwood Drive**, be granted two variances 1) **an 8-inch variance from the 5-foot side setback requirement of the “R-4” zoning district, in order to allow an accessory dwelling unit 4 feet 4 inches from the east property line and 2) a 172.8 square foot variance from the requirement that accessory dwelling units not exceed 40 percent of the footprint of the principle structure, in order to allow an accessory dwelling unit with a footprint of 667 square feet and that the variances be granted for the following reasons.** The variance

will not be contrary to the public interest in **there was no opposition to this particular request.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **this was a pre existing structure at the time of purchase by Mr. Gonzalez and I am referring as more than one sentence but I am referring to the size of the building and the square footage that is under consideration for variance.** By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done in that **it is my feeling that the spirit of the ordinance would be served and that this owner of this property that is burden with this situation that exist was not created by him. This was a pre existing structure, granted an accessory building but still you have the same setback requirements at that time.** 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 **staff has indicated that an accessory dwelling is permitted in this zoning classification if certain conditions of the code are met.** 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 proposed use is one that is allowed in this zoning classification.** 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 this was not created by the owner of the property at the time of purchase and according to an early survey of the property the size and area of this structure were pre existing conditions and not one created by the owner.** The motion was seconded by **Mr. Zuniga.**

**AYES: Camargo, Zuniga, Dutmer, Rogers, Cruz, Ozuna, Gallagher**  
**NAY: Villyard, Klein, Moffat**

**THE VARIANCES WERE NOT GRANTED.**

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**CASE NO. A-10-051**

Applicant – Alma R. Saiz  
The South Irregular 89 feet of Lot 10, Block 5, NCB 2226  
2215 West Martin Street  
Zoned: “I-1 AHOD” General Industrial Airport Hazard Overlay District

The applicant is requesting a Special Exception to allow a one operator beauty/barber shop.

Jacob Floyd, Planner, presented background and staff’s recommendation of approval of the requested Special Exception. He indicated 11 notices were mailed, one was returned in favor and one was returned in opposition and Prospect Hill Neighborhood Association is in favor.

Alma Saiz, applicant, stated her customers would park in her driveway. She also stated she will only have one to two customers at time.

**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-10-051 closed.

**MOTION**

A motion was made by **Ms. Cruz**. Re Appeal **A-10-051**, application for a **one-operator beauty or barber shop special exception**, property **2215 West Martin Street**, legal description **the south irregular 89 feet of Lot 10, Block 5, NCB 2226**, applicant is **Ms. Alma Saiz**. I move that the Board of Adjustment grant the applicant's request regarding Appeal No **A-10-051**, application for a Special Exception for the subject property as described previously, because the testimony and evidence presented to us and the facts that we have determined show that this Special Exception meets the requirements listed in UDC 35-399.01. Specifically we find that the following conditions have been satisfied. The special exception will be in harmony with the spirit and purpose of the chapter in that **the applicant has indicated she will operate according to the criteria established in Section 35-399.01 of the UDC**. The public welfare and convenience will be substantially served in that **the special exception will further serve the public welfare in that the proposed beauty/barbershop will serve as a public convenience within a residential area**. The neighboring property will not be substantially injured by such proposed use in that **the granting of the special exception will not alter the use of the property for which the special exception is sought. The primary use of the subject property will remain a single-family residence**. The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought in that **it does not appear that the granting of the special exception will alter the essential character of the district in which the subject property is located in that the beauty/barbershop will remain confined to 25% or less of the gross floor area of the primary residence**. The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district in that **the purpose of the district is to promote the public health, safety, morals, or general welfare. The granting of this special exception will not weaken this purpose, nor will it weaken the regulations established for this district. The applicant does know that her operation hours will be from 10 am to 5 pm Monday thru Saturday which will have the operation of total 42 hours. The duration for a two-year period**. The motion was seconded by **Mr. Villyard**.

**AYES: Cruz, Villyard, Camargo, Moffat, Zuniga, Klein, Rogers, Ozuna, Gallagher**

**NAY: Dutmer**

**THE SPECIAL EXCEPTION WAS GRANTED.**

**CASE NO. A-10-052**

Applicant – Sanjuanita E. Hernandez

Lot 144, Block 34, NCB 3693

126 Hillrose Street

Zoned: "MF-33 AHOD" Multi-Family Airport Hazard Overlay District

The applicant is requesting a special exception to allow an ornamental iron front-yard fence not to exceed 6 feet in height.

Jacob Floyd, Planner, presented background and staff's recommendation of approval of the requested variance. He indicated 21 notices were mailed, one was returned in favor and none were returned in opposition.

Tonya Hernandez, representative, stated the reason for this fence is for safety and security issues. She also stated there have been numerous break-ins to the house. She further stated her parents pulled a permit for a 4-foot fence and were confused as to how high the points on top of the fence should be.

**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-10-052 closed.

**MOTION**

A motion was made by **Mr. Villyard**. Re Appeal No **A-10-052**, application for a **special exception to allow an ornamental iron front yard fence not to exceed 6 feet in height**, at the property known as **126 Hillrose Street**, legal description **Lot 144, Block 34, NCB 3693**, the applicant **Sanjuanita E. Hernandez**. I move that the Board of Adjustment grant the applicants request regarding the above appeal No. **A-10-052** application for a Special Exception to the subject property as described above, because the testimony and evidence presented to us, and the facts that we have determined show that this Special Exception meets the requirements listed in UDC 35-399.04. Specifically we find that the following conditions have been satisfied. The special exception will be in harmony with the spirit and purpose of the chapter in that **the fence in question follows the design conditions established in Sec 35-399.04 of the UDC**. The public welfare and convenience will be substantially served in that **the granting of this fence will permit the applicant to secure the subject property to the extent desired**. The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought. The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district in that **the additional height of the fence in question is not so great as to conflict with the scale of the neighborhood and will help to secure the property**. The motion was seconded by **Ms. Rogers**.

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

**NAY: Moffat**

**THE SPECIAL EXCEPTION WAS GRANTED.**

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**Sign Master Plan No. 10-010**

Arturo Elizondo, Sign Inspector, briefed Board Members on Sign Master Plan for NE Loop 410 @ Jones Maltsberger, located at 96 Northeast Loop 410.

**Mr. Camargo** made a motion to approve **Sign Master Plan No. 10-010** and was seconded by **Mr. Villyard** and all members voted in the affirmative.

**THE SIGN MASTER PLAN WAS APPROVED.**

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**Sign Master Plan No. 10-011**

Arturo Elizondo, Sign Inspector, briefed Board Members on Sign Master Plan for City Base West, located at SE Military at S. New Braunfels.

**Mr. Ozuna** made a motion to approve **Sign Master Plan No. 10-011** and was seconded by **Mr. Klein** and all members voted in the affirmative.

**THE SIGN MASTER PLAN WAS APPROVED.**

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**Approval of the June 21, 2010 Minutes**

**The June 21, 2010 minutes were approved with all members voting in the affirmative.**

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**Andrew Spurgin, Planning Manager, briefed board members on proposed changes to the 2010 Board of Adjustment calendar.**

**Ms. Moffat made to motion to recommend approval to schedule future board meetings every three weeks instead of the 1<sup>st</sup> and 3<sup>rd</sup> Monday of the month. This motion fails.**

**Mr. Camargo made a motion to move the November 15, 2010 regularly scheduled meeting to November 22, 2010 and the December 6, 2010 regularly scheduled meeting to December 13, 2010. The motion fails.**

**Ms. Cruz made a motion to move the November 15, 2010 regularly scheduled meeting to November 29, 2010 and the December 6, 2010 regularly scheduled meeting to December 13, 2010. Ms. Moffat seconded the motion.**

**AYES: Gallagher, Klein, Dutmer, Curz, Moffat, Rogers**

**NAY: Ozuna, Zuniga, Camargo, Villyard,**

**THE MOTION PASSES.**

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There being no further discussion, meeting adjourned at 5:01 p.m.

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

DATE: Aug 2, 2010

ATTESTED BY: [Signature] DATE: 8-9-10  
Executive Secretary