

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
July 20, 2009**

Members Present:

Michael Gallagher
Andrew Ozuna
Liz Victor
Edward Hardemon
Helen Dutmer
George Britton
Rolando Briones
Mary Rogers
Gene Camargo
Mimi Moffat
Henry Rodriguez

Staff:

Fernando De León, Assistant Director
Rudy Niño, Senior Planner
Jacob Floyd, Planner
Michael Farber, Planner
Paul Wendland City Attorney
Arturo Elizondo, Sign Inspector

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.

CASE NO. A-09-061

Applicant – Cynthia Munoz
Lot F, Block 100, NCB 3368
1044 Bailey Avenue
Zoned: "R-4 Residential Single-Family District

The applicant is requesting **1)** a special exception for an ornamental-iron front yard fence to keep an existing 5-foot tall ornamental-iron front yard fence and **2)** a 1-foot variance from the requirement that side and rear-yard fences not exceed 6 feet in height in order to keep an existing 7-foot tall fence in the side and rear yard from the southeast corner to a point 18 feet 6 inches going north along the east side property line.

Jacob Floyd, Planner, presented background and staff's recommendation of denial of the requested variances. He indicated 25 notices were mailed, 13 were returned in favor and 3 were returned in opposition and no response from the Highland Park Neighborhood Association.

Cynthia Munoz, applicant, stated the reason for this reason is for safety from burglars and vandalism. Her walls were spray painted back in February 2009. She also stated this fence has sentimental value because it took her 70-year old father six months to complete this fence. Other

neighbors have agreed that this fence is beautiful. She further stated this fence is attractive, enhances the character of the neighborhood, and makes the house look classier.

The following citizens appeared to speak:

Max Landingham, citizen, spoke in favor.

Carlota Long, 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-09-061 closed.

MOTION

A motion was made by **Mr. Camargo**. I would move that in Case **A-09-061**, the request of the applicant/owner **Cynthia Munoz**, on property known as **1044 Bailey Avenue**, also known as **Lot F, Block 100, NCB 3368** be granted **item #1** which is a special exception for an **ornamental-iron fence within the front yard**. The special exception will be in harmony with the spirit and purpose of this chapter in that **the code specifically allows with the approval of the board that a fence that meets certain construction requirements such as the size and spacing of the vertical bars be in compliance with this regulations would be allowed with this board's approval to be constructed**. The public welfare and convenience will be substantially served in that **the applicant has indicated and submitted copies of at least one police report where there has been an incident at this home and the applicant has stated that was one of the reasons that the fence was constructed to this height**. The neighboring property will not be substantially injured by such proposed use in that **of the notices that were sent to the adjacent property owners, a large majority, 13 I believe were returned in favor and 3 were returned in opposition. One of the representatives of an owner to the rear which had returned a notice in opposition had initially indicated in the notice that there was an objection to the 7-foot fence not the four and five. In discussion we have learned that the applicant has amended this particular request to delete the 7-foot requirement**. 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 property is currently zoned and only allows a single family use of the property**. The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district in that **again exceptions of this type that meet certain requirements do not need to meet the facts, findings requirements that are generally required in a variance**. The motion seconded by **Mr. Briones**.

- AYES: Camargo, Briones, Rodriguez, Hardemon, Rogers, Victor, Ozuna, Britton, Gallagher**
- NAY: Moffat**
- ABSTAIN: Dutmer**

THE SPECIAL EXCEPTION WAS GRANTED.

CASE NO. A-09-064

Applicant – Max Landingham
Lot 47, Block 9, NCB 17827
3302 Butterleigh Drive
Zoned: “R-6” Residential Single-Family District

The applicant is requesting 1) a 4-foot variance from the requirement that fences in side and rear yards not exceed 6 feet in height in order to keep an existing fence at a height of 10 feet in the north side-yard and 2) a 2-foot variance from the requirement that fences in side and rear yards not exceed 6 feet in height in order to keep an existing 8-foot tall fence in the side and rear yards.

Jacob Floyd, Planner, presented background and staff’s recommendation of denial of the requested variance. He indicated 28 notices were mailed, 1 was returned in favor and 1 was returned in opposition and no response from the Eden Neighborhood Association.

Max Landingham, applicant, stated several of his neighbors are in support of the fence. He also stated the fence height was existing when he purchased the property and he just wants to repair. He further stated the fence height will give him privacy with the pool and the deck especially since his house sits on a corner lot and has a big amount of traffic flow.

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-09-064 closed.

MOTION

A motion was made by **Ms. Victor**. Re Appeal **A-09-064**, variance application for **3302 Butterleigh Drive, Lot 47, Block 9, NCB 17827**, the variance application is for a **side-yard fence height variance**, and the applicant is **Max Landingham**. I move that the Board of Adjustment grant the applicant’s request regarding Appeal No **A-09-064**, application for a variance to the subject property as described above, because the testimony presented to use, 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 surrounding neighbors who are the public in this case have almost unanimously signed a petition saying that they are for the fence**. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the backyard and the pool area is completely visible from the street without an 8-foot fence**. The spirit of the ordinance is observed and substantial justice is done in that **the variance is only for this property and the variance, because of the corner lot, will be specific to this property and not reflect the rest of 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 **it’s a fence around the house and it’s not going to change**

that. 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 a corner lot and the bulk of the fence is only located in visual from the side of the property which is on a very busy street.** 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 pool and the deck were already existing and basically he simply replaced an existing fence as far as the outline for height.** The motion seconded by Mr. Hardemon.

AYES: Rodriguez, Briones, Ozuna, Gallagher, Dutmer

NAY: Victor, Hardemon, Camargo, Britton, Moffat, Rogers

THE VARIANCE WAS NOT GRANTED.

CASE NO. A-09-066

Applicant – Rodolfo Molina
Lot 10, Block 1, NCB 3257
125 East Kings Highway
Zoned: “H R-5” Residential Single-Family Monte Vista Historic District

The applicant is requesting for a 2-foot variance from the requirement that side and rear-yard fences not exceed 6 feet in height in order to erect an 8-foot tall fence on the side and rear property lines.

Michael Farber, Planner, presented background and staff’s recommendation of denial of the requested variance. He indicated 13 notices were mailed, none were returned in favor and 2 were returned in opposition and no response from the Monte Vista Neighborhood Association.

Ron Hozza, representative, stated the reason for this request is for safety from burglars and people trespassing. There have been several instances where there the police have knocked on the front door to ask to get into the backyard because they were chasing someone who went into the yard. He also stated they are just asking for a security privacy fence. There is also a grade difference which makes it look like there is a 4-foot fence in the alley. He further stated several of the neighbors do have 10-foot fences and they are just requesting an 8-foot fence.

The following citizens appeared to speak:

Ron Martin, 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-09-066 closed.

MOTION

A motion was made by **Mr. Ozuna**. Re Appeal A-09-066, variance application for **Rodolfo Molina**, subject address is **125 East Kings Highway**, subject property description is **Lot 10, Block 1, NCB 3257**, situated at **125 East Kings Highway**, again the applicant is **Rodolfo Molina**. The applicant is requesting a variance from the allowable maximum fence height standards, as stated in Section 514 of the Unified Development Code. Specifically the request is for a 2-foot variance in order to erect an 8-foot tall fence along a portion of the rear and 13-feet on the east side property lines. The maximum allowable height for the side and rear yard fences shall not exceed 6 feet in height except for the previous, the property is currently zoned "H R-5". Specifically we find that such variance will not be contrary to the public interest in that there are several fences in the immediate vicinity of the subject property that have fences that exceed the maximum allowable side and rear fence height by 2 or more feet. Therefore we do not believe the fence will create any disharmony in the ecstastic significance of the neighborhood. The request does not appear to cause any public safety concerns. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that we have been provided evidence here by the applicant's representative that security is an issue here and that being the only fence with 4-foot within the block revise a futtle effect or by police have had to apprehend criminals in the property because of that futtle effect of the only fence at a 4-foot height. The spirit of the ordinance is observed and substantial justice is done in that the maximum allowable fence height for side and rear-yard fences would allow the applicant to erect the fence at a reasonable height. Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the subject property is located in that the granting of this variance would not authorize the use other than those specifically permitted in "R-5" zoning districts. Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located in that it does not appear that the granting would negatively affect the alter of character of the neighborhood giving the evidence presented to us today of adjoining neighbors of property fences that are 8 to 10 feet in height where the applicant is requesting merely an 8-foot in 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 in that we have provided evidence and testimony regarding topography and the 2-foot variance in elevation between the fence and the ground in which it provides a safety issue. The motion seconded by **Mr. Rodriguez**

AYES: Ozuna, Rodriguez, Hardemon, Camargo, Victor, Rogers, Britton, Briones, Moffat, Dutmer, Gallagher

NAY: None

THE VARIANCE WAS GRANTED.



Board recessed for 10 minutes.

CASE NO. A-09-067

Applicant – Joe & Margie Conatser
Lot 52, Block 5, NCB 16291
5822 Champions Hill Drive
Zoned: "R-6" Residential Single-Family District

The applicant is requesting a 1-foot variance from the requirement that accessory structures exceeding thirty inches in height be located a minimum distance of 3 feet from side and rear property lines when that structure has no sills, belt courses, cornices, buttresses, eaves, or similar projecting architectural features, in order to keep an existing accessory structure 2 feet from the rear property line.

Jacob Floyd, Planner, presented background and staff's recommendation of approval of the requested variance. He indicated 24 notices were mailed, none were returned in favor and none were returned in opposition and no response from the Woodstone Homeowners Association.

Joe Conatser, applicant, stated he did not realize he had built this building too close to the fence and it is used for personal storage. He also stated it does not affect his neighbor in any way.

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-09-067 closed.

MOTION

A motion was made by Ms. Rogers. Re Appeal A-09-067, variance application for a **1-foot variance from the requirement of Section 370 that accessory structures exceeding thirty (30) inches in height be located a minimum distance of 3 feet from any side or rear property line when that structure has not sills, belt courses, cornices, buttresses, eaves, or similar projecting architectural features, in order to keep an existing accessory structure 2 feet from the property line**, subject property is zoned "R-6" Residential Single-Family, subject property description is **5822 Champions Hill Drive, Lot 52, Block, 5, NCB 16291**, the applicant is **Joe & Margie Conatser**. I move that the Board of Adjustment grant the applicant's request regarding Appeal No A-09-067, 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 **it does not appear that the granting of the variance would be contrary since the structure does appear to pose a safety hazard and/or cause disharmony to the character of the neighborhood**. Due to special conditions, a literal enforcement of the ordinance would

result in unnecessary hardship in that it does appear that literal enforcement would result in unnecessary hardship in that the property is characterized by a slope that limits the placement of structure on the lot and likewise the unique shape of the lot creates a rear-yard area that is shallower than typical lots in this district. Further there a number of large trees on this lot that negate placement of an accessory structure in a location that might be compliant with the UDC. The spirit of the ordinance is observed and substantial justice is done in that it appears that the granting of this variance would be in harmony with the spirit of the ordinance given that the slope is significant enough to deny the applicant a reasonable use of the rear yard. 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 because the granting of this variance would not authorize a use other than those specifically permitted in the "R-6" zone district. Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located in that it does not appear that the granting of this variance would influence the appropriate use of adjacent conforming properties nor would the essential character of the district be altered. The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located being that the circumstances existing on the property do appear to be unique and they are not self created or merely a financial nature. The slope of the land though commonly experienced by abutting properties uniquely affects the subject property when combined with an irregular shape. The motion seconded by Mr. Camargo.

AYES: Rogers, Camargo, Moffat, Rodriguez, Hardemon, Briones, Britton, Victor, Ozuna, Dutmer, Gallagher

NAY: None

THE VARIANCE WAS GRANTED.

CASE NO. A-09-068

Applicant – Martin G Valladolid
Lot 22, Block 16, NCB 12044
235 Michael
Zoned: "R-4" Residential Single-Family District

The applicant is requesting a 4-foot variance from the requirement that a minimum 5-foot side setback be maintained in order to keep an existing carport 1 foot from the west side property line.

Michael Farber, Planner, presented background and staff's recommendation of denial of the requested variance. He indicated 38 notices were mailed, 3 were returned in favor and 1 was returned in opposition and no response from the Highland Hills Neighborhood Association.

Maria Vallalodid, applicant, stated her husband build the carport for the security of their vehicles. She stated they are not planning to cover up the carport and she is aware that they will have to put a firewall. She further stated her neighbor is in support of the carport.

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-09-068 closed.

MOTION

A motion was made by **Mr. Ozuna**. Re Appeal A-09-068, variance application for **Martin G. Valladolid**, subject property description **Lot 22, Block 16, NCB 12044**, the address is **235 Michael**, the applicant is **Martin G. Valladolid**, the variance request is for a **4-foot variance from the requirement of Section 310 that a minimum 5-foot side setback be maintained, to keep an existing carport 1-foot from the west side property line**, subject property is zoned **"R-4" Residential Single-Family District, if the variance is not granted the applicant must comply with the required minimum side setback of 5-feet**. I move that the Board of Adjustment grant the applicant's request regarding Appeal No **A-09-068**, 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 **there are several properties in the immediate vicinity of the subject that have carports that appear to encroach upon the required side setback, likewise, they appear the permits were obtained for the construction of the carports**. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the improvements have been constructed by the applicant although that is no remedy for the variance, they would provide some hardship and that the applicant would need to rectify the situation**. The applicant has provided testimony that they know they are required to build a firewall to protect the westside of the property line if the subject variance is granted. The spirit of the ordinance is observed and substantial justice is done in that **again the improvements have been constructed**. Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the subject property is located in that **the granting of the variance would not authorize the use other than those specifically permitted in the "R-4" 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 **we have been provided evidence and testimony that there are similar garage structures that encroach in which do not apparently affect the use of the properties or alter the character of the district**. 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 we have been provided testimony about the size of the lots which would not permit, while protecting their properties, either cars**

and to build a garage that would comply with the existing setback requirements and the existing code. The motion seconded by Ms. Dutmer.

AYES: Ozuna, Dutmer, Briones, Britton, Rodriguez, Rogers, Hardemon, Victor
NAY: Moffat, Camargo, Gallagher

THE VARIANCE WAS NOT GRANTED.

CASE NO. A-09-069

Applicant – Frances Cisneros
Lot 14, Block 31, NCB 11757
507 Creath Place
Zoned: “R-4” Residential Single-Family District

The applicant is requesting a special exception to allow a one-operator beauty/barber shop.

Michael Farber, Planner, presented background and staff’s recommendation of approval of the requested special exception. He indicated 28 notices were mailed, 1 was returned in favor and none were returned in opposition and no response from the Beacon Hill Neighborhood Association.

Frances Cisneros, applicant, stated she has not had any complaints from any of her neighbors and keeps her property cleaned. She also stated that her hours of operation are Tuesday thru Saturday from 9:00 am to 4:00 pm by appointment only. She further stated she has met all code inspections.

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-09-069 closed.

MOTION

A motion was made by **Mr. Rodriguez**. In Case No **A-09-069**, the applicant **Frances Cisneros**, location **507 Creath Place, Lot 14, Block 31, NCB 11757**, the applicant is asking for a **special exception for a one-operator beauty/barber shop**. I move that the Board of Adjustment grant the applicants request for this special request for 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. Specifically we find that the following conditions have been satisfied. The special exception will be in harmony with the spirit and purpose in this chapter in that **the existing one-operator beauty/barber shop follows the specific criteria established in Sec 35-399.01 of the Unified Development Code**. 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/barber shop has continuously operated within the perimeters set forth in Sec 35-399.01 and serve a public convenience**

with 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 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 **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 shop has and 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 provide the public health, safety morals or general welfare. The granting of the special exception will not weaken the purpose nor will it weaken the regulations established for this district and it calls for a four year and the times will be 9 am to 4 pm, Tuesday thru Saturday.** The motion seconded by Ms. Rogers.

AYES: Rodriguez, Rogers, Victor, Camargo, Hardemon, Briones, Britton, Ozuna, Moffat, Dutmer, Gallagher

NAY: None

THE SPECIAL EXCEPTION WAS GRANTED.

CASE NO. A-09-070

Applicant – Jeff & Mary Grace Ketner
The East 50 feet of Lot 11, Block 1, NCB 2966
109 Fir Street
Zoned: “H RM-4” Residential Mixed King William Historic District

The applicant is requesting a 2-foot, 10-inch variance from the requirement that a minimum 5-foot side setback be maintained in order to erect an accessory structure 2 feet 2 inches from the west side property line.

Jacob Floyd, Planner, presented background and staff's recommendation of denial of the requested variance. He indicated 32 notices were mailed, 1 was returned in favor and none were returned in opposition and no response from the King William Neighborhood Association.

Mary Grace Ketner, applicant, stated a neighbors tree fell with a storm and fell on her garage. She also stated her architect told she would have to apply for a variance because is she move the doorway 3 feet further inward they wouldn't be able to use the door and backing out the garage would be a problem. She further stated there are several garages in the neighborhood that are on or near the property line. The location of the garage and the house have been there for many years.

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-09-070 closed.

MOTION

A motion was made by **Ms. Rogers**. **I would like to move that this case be continued until the meeting of August 3 for the purpose of applicant consulting architect and HDRC.** The motion seconded by **Mr. Hardemon**.

AYES: Rogers, Hardemon, Victor, Dutmer, Britton, Briones, Rodriguez, Moffat, Camargo, Ozuna, Gallagher

NAY: None

THE CONTINUANCE WAS GRANTED.



CASE NO. A-09-071

Applicant – Ed Hernandez
Lot 4A, Block 12, NCB 9024 and Lot 25, Block 1, NCB 9024
4807 West Commerce Street
Zoned: “C-3 R” General Commercial Restricted Alcoholic Sales District, “C-2” Commercial District and “C-2 NA” Commercial Non-Alcoholic Sales District

The applicant is requesting **1) a 62-foot variance from the requirement that on-premise signs be at least 150 feet apart in order to keep an on-premise sign 88 feet from the nearest on-premise sign; 2) a 60-foot variance from the requirement that on-premise signs be at least 150 feet apart in order to keep an on-premise sign 90 feet from the nearest on-premise sign; 3) a 7-foot 7-inch variance from the standard that any secondary sign along a street classified as an Arterial Type A shall not exceed 75% of the allowable height in order to keep an existing 37 foot, 7 inch tall sign and 4) a 5-foot variance from the standard that any secondary sign along a street classified as an Arterial Type A shall not exceed 75% of the allowable height, in order to keep an existing 35 foot tall sign.**

Michael Farber, Planner, presented background and staff’s recommendation of approval of the requested sign variances. He indicated 90 notices were mailed, 1 was returned in favor and none were returned in opposition and no response from the Prospect Hill Neighborhood Association.

Arturo Elizondo, sign inspector, stated this could not be a sign master plan because all nonconforming signs would have to be brought down to conformity and it is one continuous lot except the Walgreens which is not included here.

Ed Hernandez, applicant, stated this property was acquired from HEB three years ago and they have been intending to redevelop it. Currently there is a multi-million dollar renovation going on this property at the present moment. He also stated they have removed four signs and lowered the firestone and peter piper sign to be in compliance with 30 foot level. The KFC and Advance Auto signs were not able to be brought down to compliance because they have an underground

lease with the previous owner which the lease agreement prohibits the new owner from trying to bring the signs to compliance. He also stated they tried to negotiate with KFC and Advance but they wanted to keep their status quill. He further stated they are trying to do their best to improve the property. They have reduced sign clutter. One of the reasons for this variance on distance is because between the two restaurants is the main entrance and they felt this is where the main pylon should be placed.

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-09-071 closed.

MOTION

A motion was made by **Mr. Camargo**. I would move that in Appeal **A-09-071**, the applicant being **Ed Hernandez**, at property known as **4807 West Commerce Street**, also known as **Lot 4A, Block 12, NCB 9024 and Lot 25, Block 1, NCB 9024**, be granted the following variances **1) a 62-foot variance from the requirement that on-premise signs be at least 150 feet apart in order to keep an on-premise sign 88 feet from the nearest on-premise sign; 2) a 60-foot variance from the requirement that on-premise signs be at least 150 feet apart in order to keep an on-premise sign 90 feet from the nearest on-premise sign; 3) a 7-foot 7-inch variance from the standard that any secondary sign along a street classified as an Arterial Type A shall not exceed 75% of the allowable height in order to keep an existing 37 foot, 7 inch tall sign and 4) a 5-foot variance from the standard that any secondary sign along a street classified as an Arterial Type A shall not exceed 75% of the allowable height, in order to keep an existing 35 foot tall sign**, subject property is currently zoned **"C-3 R" General Commercial Restricted Alcoholic Sales District, "C-2" Commercial District and "C-2 NA" Commercial Non-Alcoholic Sales District**. 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, landscaping, and topography. **In addition to that the uniqueness of this particular site is the large number of conforming signs that have been erected on this site prior to the current sign regulations that poses a hardship in my opinion to provide new modern signage for redevelopment of this vacant shopping center and be in compliance with the current regulations.** It is felt by this board member that granting the variance does not provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated **that along this portion of West Commerce a major Type A arterial street there are many non conforming signs, many illegal signs and is most difficult to come up with a plan outside an overall master plan which cannot be accomplished from this sign to give the exposure and advertisement necessary to bring new businesses into a location that has been somewhat dorminant and to insure they thrive in their venture.** The motion seconded by **Ms. Victor**.

AYES: Camargo, Victor, Rodriguez, Hardemon, Rogers, Britton, Briones, Moffat,
Dutmer, Ozuna, Gallagher

NAY: None

THE VARIANCES WERE GRANTED.

Approval of the June 15, 2009 Minutes

The June 15, 2009 minutes were approved with all members voting in the affirmative.

There being no further discussion, meeting adjourned at 4:28 p.m.

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

DATE: 8-17-09

ATTESTED BY: [Signature] DATE: 8/17/09
Executive Secretary