

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
June 21, 2010**

Members Present:

Andrew Ozuna
Edward Hardemon
Helen Dutmer
George Britton
Jesse Zuniga
Mary Rogers
Mike Villyard
Paul Klein
Mimi Moffat
Harold Atkinson

Staff:

Andrew Spurgin, AICP, Planning Manager
Jacob Floyd, Planner
Audrey Zamora, City Attorney

Call to Order

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

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

Ms. Dutmer, arrived at 1:03 p.m.

CASE NO. A-10-043

Applicant – Maria Ernestina Carrillo
Lot 13, Block 24, NCB 8834
1711 Santa Barbara Street
Zoned: “R-4 AHOD” Residential Single-Family Airport Hazard Overlay District

The applicant is requesting 1) a 2-foot 2-inch variance from the requirement that a minimum 5-foot side setback be maintained for accessory detached dwelling units, in order to keep an existing accessory detached dwelling unit 2 feet 10 inches from the east side property line and 2) a 9.645 percent (108.8 square foot) variance from the requirement that the footprint of accessory detached dwelling units not exceed forty (40) percent of the footprint of the principal residence, to allow an accessory detached dwelling unit with a footprint 49.645 percent (560 square feet) of the principal residence.

Jacob Floyd, Planner, presented background and staff’s recommendation of approval of the requested variances. He indicated 36 notices were mailed, 2 were returned in favor and none were returned in opposition.

Jesse Carrillo, representative, stated his wife hired a contractor who was supposed to pull the permits and follow all city rules. He also stated the accessory structure was already on the property when his wife purchased the property.

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-10-043 closed.

Motion

A motion was made by **Mr. Klein**. In Appeal A-10-043, variance request for two variances, 1) a **2-foot 2-inch variance from the requirement that a minimum 5-foot side setback be maintained for accessory detached dwelling units to keep an existing ADDU 2 feet 10 inches from the east side property line and 2) a 108.8 square foot variance from the requirement that the footprint of accessory detached dwelling units not exceed forty (40) percent of the footprint of the principal residence, to allow an accessory detached dwelling unit with a footprint of 500 square feet or 46.645 percent of the principal residence**, the applicant is **Maria Ernestina Carrillo**, the location is **1711 Santa Barbara Street**, the legal description is **Lot 13, Block 24, NCB 8834**, 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 this appeal, for variances 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 variances would not be contrary to the public interest as the structure in question is a converted detached garage that has existed in this location since at least 1929, as shown on the dated Sanborn Insurance Maps. Additionally, the variances would not be contrary to the public interest as similarly situated properties with structures of this approximate age enjoy accessory structures situated in this manner and in this neighborhood.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **it does appear that the literal enforcement of the ordinance would result in unnecessary hardship. This accessory detached dwelling unit is a remodeled detached garage structure that has been in the location since approximately 1929. Additionally, the conversion to a dwelling unit maintained the footprint of the previous detached garage.** The spirit of the ordinance is observed and substantial justice is done in that **the granting of the variances would be in keeping with the spirit of the ordinance. The previous detached garage was converted into an accessory dwelling unit located on the same foundation and with identical footprints.** 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 variances will not authorize the operation of a use other than those uses specifically authorized in the "R-4 AHOD" zoning district. Accessory detached dwelling units are permitted in this district according to the provisions of section 35-3171 (b) of the Unified Development Code, including the requirements that accessory detached dwelling units not**

contain more than one bedroom, that the property owner either the principal unit or accessory dwelling unit as their permanent residence and that accessory dwelling units be connected to the utilities of the principal structure and that total number of occupants in the accessory dwelling unit not exceed three persons. 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 variances will not substantially injure the appropriate use of adjacent conforming property nor will it alter the essential character of the district in which the property is located. The subject property will retain its single-family residential character and will maintain the character of the district as a single-family neighborhood with numerous similar accessory structures in rear yards.** The plight of the owner of the property for which the variances 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 applicant is due to the location and bulk of the previous detached garage built approximately in 1929. The 560 square foot footprint of the accessory detached dwelling unit is no greater than that of the earlier garage and is within the permitted total floor are for this type of structure. The variances do not forgo any permitting irregularities or thing of this sort and they will need to pull electrical permits, etc. and satisfy those requirements.** The motion was seconded by Ms. Rogers.

AYES: Klein, Rogers, Moffat, Zuniga, Atkinson, Dutmer, Britton, Villyard, Ozuna

NAY: Hardemon

THE VARIANCE WAS GRANTED.

CASE NO. A-10-045

Applicant – Nicholas Harris

Lot 19, Block 1, NCB 15318

120 Rustleaf Drive

Zoned: "C-3 NA AHOD" General Commercial Nonalcoholic Sales Airport Hazard Overlay District

The applicant is requesting 1) an 8-foot variance from the requirement that freestanding signs in nonresidential zoning districts not exceed 16 feet in height when located on a local street to allow a 24 foot tall sign and 2) a 39 square foot variance from the requirement that freestanding signs in nonresidential zoning districts not exceed 75 square feet in size when located on a local street to allow a 114 square foot sign.

Jacob Floyd, Planner, presented background and staff's recommendation of denial of the requested variances. He indicated 11 notices were mailed, one was returned in favor and none were returned in opposition.

Nicolas Harris, applicant, stated the applicant had a previous sign agreement with the owner on the abutting lot to allow an on-premise sign on their property. He also stated a new owner on the abutting property did not want an agreement with them so they had to remove the sign. He further stated because of the topographical issues the 16-foot sign would not be visible.

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-10-045 closed.

MOTION

A motion was made by Ms. Rogers. Re Appeal No A-10-045, variance application for an 1) **8-foot variance from the requirement that freestanding signs in nonresidential zoning districts not exceed 16 feet in height when located on a local street, to allow 24 foot tall sign** and 2) **a 39 square foot variance from the requirement that freestanding signs in nonresidential zoning districts not exceed 75 square feet in size when located on a local street to allow a 114 square foot sign**, subject property **120 Rustleaf Drive, Lot 19, Block 1, NCB 15318**, the applicant being **Nicholas Harris**. I move that the Board of Adjustment grant the applicants request regarding the above appeal number, application for a sign variance to the subject property as described above, because the testimony presented to us, and the facts that we have determined show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship. Specifically, we find that the variance is necessary because strict enforcement of this article prohibits any reasonable opportunity to provide adequate signs on the property, considering the unique features of a site such as the topography **in this particular case and that it is being located behind another business**. The board finds that granting the variance does not provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated **because this business is located behind another car business and the sign that it was using they will no longer be able to use**. Granting the variance will not have a substantially adverse impact upon the neighboring properties **they are at a required distance from the adjoining neighborhood and there has been no opposition received by the city**. Granting the variance will not substantially conflict with the stated purposes of this article. The motion was seconded by **Mr. Hardemon**.

AYES: Rogers, Hardemon, Dutmer, Zuniga, Britton, Klein, Ozuna
NAY: Villyard, Atkinson

THE VARIANCE WAS NOT GRANTED.

Approval of the May 17, 2010 Minutes

The May 17, 2010 minutes were approved with all members voting in the affirmative.

[REDACTED]

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

[REDACTED]

There being no further discussion, meeting adjourned at 2:10 p.m.

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

DATE: 7-19-10

ATTESTED BY: [Signature] DATE: 7-19-10
Executive Secretary