

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
June 25, 2012**

Members Present:

Michael Gallagher
Andrew Ozuna
Frank Quijano
Ed Hardemon
Helen Dutmer
George Britton
Jesse Zuniga
Mary Rogers
Gene Camargo

Staff:

Andrew Spurgin, Planning Manager
Margaret Pahl, Senior Planner
Trenton Robertson, 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. Ozuna made a motion to move Case No. A-12-059 to end of the agenda and was seconded by Mr. Hardemon with all members voting in affirmative.

Mrs. Rogers made a motion to move Case No. A-12-065 to follow Case No. A-12-059 and was seconded by Mr. Camargo with all members voting in affirmative.

CASE NO. A-12-042

Applicant – Keller Signs

Lot 6, Block 1, NCB 16391

23535 W. IH 10

Zoned: “C-3 GC-1 MLOD-1” General Commercial Hill Country Gateway Corridor Military Lighting Overlay District

The applicant is requesting for 1) a 144-square foot variance from the 300-square foot maximum sign area requirement for multiple-tenant signs of the “GC-1” Hill Country Gateway Corridor District, in order to allow a 444-square feet multiple-tenant sign and 2) a 10-foot variance from the 40-foot maximum sign height requirement for multiple-tenant signs of the “GC-1” Hill Country Gateway Corridor District, in order to maintain a 50-foot tall multiple tenant sign.

Trenton Robertson, Planner, presented background and staff's recommendation of denial with an alternate recommendation to retain the nonconforming sign as it currently exist. He indicated 8 notices were mailed, none were returned in favor and 2 were returned in opposition and no response from Cielo Vista Neighborhood Association.

Daniel Davis, applicant, stated the purpose of this request is to allow to advertise their business as all the other have.

The following citizens appeared to speak:

Chad Clark, citizen, spoke in favor.

Steve Menzies, 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-12-042 closed.

MOTION

A motion was made by **Mr. Ozuna**. Re Appeal No. **A-12-042**, variance application for **Keller Signs**, subject property description is "**C-3 GC-1 MLOD-1**" **General Commercial Hill Country Gateway Corridor Military Lighting Overlay District**, situated at **23535 W. IH 10, Lot 6, Block 1, NCB 16391**. The variance request is for **1) a 144-square foot variance from the 300-square foot maximum sign area requirement for multiple-tenant signs of the "GC-1" Hill Country Gateway Corridor District, in order to allow a 444-square feet multiple-tenant sign; and 2) a 10-foot variance from the 40-foot maximum sign height requirement for multiple-tenant signs of the "GC-1" Hill Country Gateway Corridor District, in order to maintain a 50-foot tall multiple tenant sign**. I move that the Board of Adjustment grant the applicant's request regarding Appeal No. **A-12-042**, 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 provision of the Unified Development Code, as amended, would result in an unnecessary hardship. Specifically, we find that the variance will not be contrary to the public interest in that **the applicant has provided testimony to us today showing that the variance would provided adequate visibility to the proposed tenant from the access road to the signage**. Due to special conditions a literal enforcement of the ordinance would result in an unnecessary hardship in that **the special conditions are such that the existing sign was built and was allowed under error. The sign was built and constructed; the cabinets do not allow for adequate signage that the tenant needs to advertise the business in which the customers need visibility. The tenant has been in operation since February 2012 and has been operating in that condition without the required visibility of the signage. Additionally, had the property not been designated in the Hill Country Overlay District, the applicant would have been allowed 650 feet of square footage sign and the 50 foot height requirement as would have been allowed in the "GC-1" so the subject request provides for that hardship**. The spirit of the ordinance is observed and substantial justice is done in that **the required variance provides the adequate signage necessary for the business to operate**. 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 “C-3 GC-1 MLOD-1” General Commercial Hill Country Gateway Corridor Military Lighting Overlay District will remain, there is no proposed changes to the existing zoning.** 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 two oppositions in the proposed, one of which is a self created situation in the adjoining property in that the existing signs were in existence before the MedClinic was built and they could have provided for a free standing signage that would have provided the visibility.** 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 provided testimony and the City Sign Inspector provided testimony that the existing sign permit was issued in error and that the applicant is merely trying to provide adequate signage for the tenants.** The motion was seconded by **Mr. Camargo.**

AYES: Gallagher, Ozuna, Quijano, Hardemon, Dutmer, Britton, Zuniga, Rogers, Camargo

NAYS: None

THE VARIANCE WAS GRANTED

CASE NO. A-12-062

Applicant – Raul G. Villarreal
Lot 15, Block 8, NCB 15608
7223 Westfield Boulevard
Zoned: “R-6 AHOD” Residential Single Family Airport Hazard Overlay District

The applicant is requesting for a request for a special exception to allow a 5-foot Ornamental-Iron Front Yard Fence.

Trenton Robertson, Planner, presented background and staff’s recommendation of approval. He indicated 31 notices were mailed, one was returned in favor and none were returned in opposition and Lackland Terrace Neighborhood Association is in support.

Alice Villarreal, owner, stated she is proposing to erect a 5-foot ornamental iron front yard fence for security purposes. She stated their home and vehicles have been vandalized and burglarized.

The following citizen(s) appeared to speak:

Jeff Edwards, 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-12-062 closed.

MOTION

A motion was made **Mr. Camargo**. Re Appeal No. **A-12-062**, applicant **Raul G. Villarreal**, on property located at **7223 Westfield Boulevard**, legally described by **Lot 15, Block 8, NCB 15608**, be granted the request of variance for a special exception to allow for **a special exception to allow a 5-foot Ornamental-Iron Front Yard Fence on the previously described property**. The proposed fence meets the height, width, design and all of the requirements established in the Unified Development Code. The public welfare and convenience will be substantially granted by **allowing the applicant to secure their property. The applicant has indicated that there have been several burglaries on her property. Other individuals expressing support have also indicated that other similar occurrence have occurred in the immediate area.** The design of the fence would not encroach on the neighboring property or cause any unviewed hardship, **if it was not a 5-foot overall height fence in that 4-foot open fences such as this are permitted without any variance request.** By granting the applicant's request for a special exception **the proposed fence and the encompassing property will maintain their harmony and character of the surrounding neighborhood, staff has indicated that there are other similar fences in close proximity and that the request is in keeping with the overall character of the surrounding area.** The fences proposal **will comply with the additional standards as said forth in the Unified Development Code.** The motion was seconded by **Mr. Hardemon**.

AYES: Gallagher, Ozuna, Quijano, Hardemon, Dutmer, Britton, Zuniga, Rogers, Camargo

NAYS: None

THE VARIANCE WAS GRANTED**CASE NO. A-12-065**

Applicant – Peter Zanoni
Lot 28, Block 33, NCB 11833
215 Royal Oaks Drive
Zoned: “NP-10 AHOD” Neighborhood Preservation Airport Hazard Overlay District

The applicant is requesting for a four-foot variance from the four-foot maximum allowed height in a front yard as described in Section 35-514 of the Unified Development Code (“UDC”). If granted, the variance would permit an eight-foot high open fence for a length of approximately forty feet along the east property line. Because the house is setback fifty-five feet from the front property line, the fence is still setback approximately twenty-five feet from the curbing.

Margaret Pahl, Senior Planner, presented background and staff's recommendation approval of the variance as proposed in application A-12-065, subject to the fence remaining as constructed. He indicated that there were 13 notices mailed, 5 returned in favor and 1 returned in opposition and Oak Park Northwood Neighborhood Association is in opposition.

Peter Zanoni, owner, stated he is requesting an eight-foot high open fence for a length of approximately forty feet along the east property line. Because the house is setback fifty-five feet from the front property line, the fence is still setback approximately twenty-five feet from the curbing.

The following citizen(s) appeared to speak:

Kimberly Mosser, 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-12-065 closed.

MOTION

A motion was made **Mr. Ozuna**. Re Appeal No. A-12-065, Variance Application for **215 Royal Oaks Drive**, subject property description **Lot 28, Block 33, NCB 11833**, situated at **215 Royal Oaks Drive**, applicant, **Peter Zanoni**. Request being a **four-foot variance from the four-foot maximum allowed height in a front yard as described in Section 35-514 of the Unified Development Code (UDC)**. **If granted, the variance would permit an eight-foot high open fence for a length of approximately forty feet along the east property line. Because the house is setback fifty-five feet from the front property line, the fence is still setback approximately twenty-five feet from the curbing.** I move that the Board of Adjustment grant the applicant's request regarding Appeal No. **A-12-065**, 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 adjoining property owners are subject to enjoy the primary open front yards with generous landscaping along the cul-de-sac. The fence, if it serves the intended purpose of a support for flowering vines, should not interfere with the prevailing character and atmosphere created by the large yards and deep front-yard setbacks. Additionally the location of the fence from the property line is such that it would create the public interest in keeping the ecstastic of the setbacks of the lots of the houses from the streetscape.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the fence, if it serves the intended purpose of a support for flowering vines, should not interfere with the prevailing character and atmosphere created by the large yards and deep front-yard setbacks. There are no unique property-related conditions that warrant special consideration or deem enforcement of the standard fence height restriction unnecessary.** **In support of the request, the applicant has stated that his neighbor's trespass is the special condition and therefore the applicant designed a system to make the screening more difficult to trim in the future.** By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done. **The UDC does not regulate the height of landscape vegetation, nor does the ordinance consider hedges a fence. Therefore, there were no zoning concerns about the tall shrubs located along the property boundary. The structure designed by the applicant was reviewed by staff prior to the determination that it qualified as a fence. The applicant defines the tubing as a decorative feature above the**

compliant three-foot solid fence. Indeed, the planned use of the tubing is as a lattice to hold vines, but it also functions as a barrier as detailed in the fence definition. Important to say also is that the applicant did go through the proper procedures to get the building permit to construct the 3 foot fence which is currently situated on the property. Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the subject property is located in that **there is no use variation proposed.** 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 **five neighbors have responded to the Notice of Public Hearing in support of the applicant's request. A few of the responders were concerned that the upper portion remain open, but their concerns were allayed after realizing the plan was for only vines. The wooden fence is uncharacteristic of the neighborhood, but lush greenery is a consistent component. Therefore, the plan at maturity will not alter the essential character of the area.** The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located in that **the subject property is very similar to other homes and lots along the street. It is a large lot with over 14,000 square feet of lot area located within the Northwood Estates Subdivision. The subdivision plat imposed a 35 foot front setback along these 100 foot wide lots, resulting in expansive, open front yards. The unique circumstance, as stated in the application, is the neighbor's decision to trim the hedges without permission. The applicant states that he has suffered from repetitive trespass and as a result designed this support system to deter future trespass. The motion was seconded by Mr. Camargo.**

AYES: Gallagher, Ozuna, Quijano, Hardemon, Dutmer, Britton, Zuniga, Rogers, Camargo

NAYS: None

THE VARIANCE WAS GRANTED

CASE NO. A-12-059

Mr. Gallagher stated Case No. A-12-059 would be continued as the applicant/representative was not present. A motion was made by Mr. Zuniga and seconded by Mr. Quijano to continue this case until August 6, 2012 Meeting. All members voted in affirmative.

Approval of the Minutes

The June 4, 2012 minutes were approved with all members voting in affirmative

There being no further discussion, meeting adjourned at 2:50 pm.

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

DATE: 7-16-12

ATTESTED BY: [Signature] DATE: 7-16-12
Executive Secretary