

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
March 28, 2011**

Members Present:

Michael Gallagher
Andrew Ozuna
Liz Victor
Helen Dutmer
George Britton
Mary Rogers
Jesse Zuniga
Mike Villyard
Gene Camargo
Paul Klein

Staff:

Andrew Spurgin, AICP, Planning Manager
Jacob Floyd, Senior Planner
Rudy Niño, Senior 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.

CASE NO. A-11-020

Applicant – Jerry Arredondo
Lot 2, NCB 751
723 West Cypress Street
Zoned: “R-4 AHOD” Residential Single-Family Airport Hazard Overlay District

The applicant is requesting a 1-foot, 11-inch variance from the requirement that accessory detached dwelling units be setback a minimum of 5 feet from the side property line, in order to keep an existing accessory detached dwelling unit 3 feet 1 inch from the west side lot line.

Jacob Floyd, Senior Planner, presented background and staff’s recommendation of denial of the requested variance. He indicated 35 notices were mailed, 10 were returned in favor and none were returned in opposition and no response from the Five Points Neighborhood Association.

Jerry Arredondo, representative, stated this granny flat is surrounded by industrial zoning. He also stated this would be for the owner’s son and they do not have any opposition to this variance. He further stated the granny flat is in the existing footprint of the garage and he would put gutters up if he had to prevent rain water from going to the adjoining neighbor’s yard.

The following citizens appeared to speak:

Dominica Castillo, citizen, spoke in favor.

Bob Corbo, 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-11-016 closed.

MOTION

A motion was made by **Mr. Ozuna**. Re Appeal No **A-11-020**, variance applicant for **723 West Cypress Street**, subject property description is **Lot 2, NCB 751**, situated again at **723 w Cypress Street**, the applicant being **Juan Jose & Dominica A. Castillo**, the variance request is for a **1-foot 11-inch variance from the requirement that accessory detached dwelling units be setback a minimum of 5 feet from the side property line, in order to keep an existing accessory detached dwelling unit 3 feet 1 inch from the west lot line**. I move that the Board of Adjustment grant the applicant's request regarding Appeal No. **A-11-020**, 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 the variance will not be contrary to the public interest in that **the applicant has provided evidence to us today that the accessory building itself is located on the property that is adjacent to the industrial zone property which is for a 30 foot setback requirement. In addition the subject property has a 3 foot so in combination we would have a 33 foot setback from any two structures straddling the property lines**. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the applicant was replacing the existing footprint of the garage that was prior torn down. The thought process was that if he was building on the existing location that the location of the building would be satisfactory. The unnecessary hardship in such is that if the variance was denied that the building would have to be torn down and a loss to the applicant. Additionally the applicant has brought us testimony here before us that the entirety of the adjoining property owners have supported the project and we have saw no opposition against the applicant's request for the variance**. The spirit of the ordinance is observed and substantial justice is done in that **again evidence was provided to us about the support of the most affective property owners who support the project**. 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 variance will not authorize the use operation of a use other than those specifically authorized 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 **the variance will not injure the appropriate use of the adjacent conforming properties nor will it alter the essential character of the district**. Again the applicant provided testimony to us where **by 3 foot and in some cases 2 foot property setbacks is common throughout the neighborhood**. The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created

by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located in that **the applicant is working with the existing configuration of the lot which triangular makes the layout of the building some what of a challenge. He was replacing an existing footprint of the garage with this structure. Additionally the applicant, if this amendment is approved, will pull all required building permits from the City of San Antonio and meet the fire code, electrical code, plumbing and all the different building code requirements of the City of San Antonio.** The motion was seconded by **Mr. Camargo.**

AYES: Ozuna, Camargo, Victor, Villyard, Hardemon, Rogers, Britton, Zuniga, Dutmer, Klein, Gallagher

NAY: None

THE VARIANCE WAS GRANTED.

CASE NO. A-11-024

Applicant – Robert Rogers

Lot 2, Block 6, NCB 9231

206 Woodcrest Drive

Zoned: “NP-8 AHOD” Neighborhood Preservation Airport Hazard Overlay District

The applicant is requesting a 2 foot variance from the requirement that fences on residential lots not exceed 6 feet in height, in order to allow an 8-foot fence in the side and rear yards.

Jacob Floyd, Senior Planner, presented background and staff’s recommendation of denial of the requested variance. He indicated 21 notices were mailed, 2 were returned in favor and none were returned in opposition and no response from the Oak Park Neighborhood Association.

Robert Rogers, applicant, stated the fence has come to a state this is not ecstatically pleasing and was leaning over. He also stated the six foot fence is a safety security problem for him especially since kids jump the fence and get into his pool. He has woken up to finding people in his pool in the middle of the night. The overall issue is a safety factor and he is concerned about break-ins to his residence. He further stated the contractor informed him that he was a licensed contractor and even showed him a number that was on the side of this truck. The contractor informed the applicant that he would take of the permits that would be included in his bill and that an eight foot fence was allowed.

The following citizens appeared to speak:

Bryan Kost, 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-11-024 closed.

MOTION

A motion was made by **Mr. Klein**. In Appeal Case No **A-11-024**, this is a variance application for a **2-foot variance from the requirement that fences on residential lots not exceed 6 feet in height, in order to allow an 8-foot fence in the side and rear yards**, the physical address is **206 Woodcrest Drive**, the legal description is **Lot 2, Block 6, NCB 9231**, the zoning is **“NP-8 AHOD” Neighborhood Preservation Airport Hazard Overlay District**, the applicant is **Mr. Robert Rogers**, the owner of the property is **Robert R & Sandra Rogers**. I move that the Board of Adjustment grant the applicant’s request in this case, 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 the variance will not be contrary to the public interest in that **the height of the fence actually does enhance the public interest by lessening the possibilities for intrusion into the applicant’s pool and uninvited guest on to the property. These would unnecessarily occupy, were they to continue, limited law enforcement personnel in San Antonio with something that is not very serious.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **while the subject property is not of exceptional dimension and topography and does not experience unnecessary hardship through the literal enforcement of this ordinance. It has been shown to us that fences of this type are very common in the area as well as the adjoining neighbors’ either accessory structure or primary residence itself is of the same height if not higher than the subject fence and is in approximate location to the property line along the alley.** The spirit of the ordinance is observed and substantial justice is done in that **the neighbors immediately affected in the area have overwhelmingly endorsed the applicant’s fence.** 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 variance will not change anything having to do with operation or any kind of use other those specifically authoring the “NP-8” 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 **fences of this height are very common as indicated by the applicant in showing approximately at least sixteen similar fences of at least 8 feet in height or taller that are included within the applicant’s file.** 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 has indicated that these are unique circumstances that prompted the replacement of the fence primarily due to the cross thru traffic on the adjoining neighbor’s property from the alley to Woodcrest Drive and primarily as the result of the dead end configuration of the Woodcrest with the elementary school to the east of Woodcrest. This does significantly increase the pedestrian traffic in the area.** The motion was seconded by **Mr. Hardemon**.

AYES: Klein, Hardemon, Camargo, Victor, Villyard, Britton, Rogers, Dutmer, Zuniga, Ozuna Gallagher.

NAY: None

THE VARIANCE WAS GRANTED.

Mr. Hardemon departed at 2:07 p.m.

Sign Master Plan No. 11-004

Arturo Elizondo, Sign Inspector, briefed Board Members on Sign Master Plan for Gonzaba Medical Group, located at 720 Pleasanton Rd..

Mr. Klein made a motion to approve **Sign Master Plan No. 11-004** and was seconded by **Ms. Dutmer** and all members voted in the affirmative.

THE SIGN MASTER PLAN WAS APPROVED.

Approval of the February 28, 2011 Minutes

The February 28, 2011 minutes were approved with all members voting in the affirmative with Ms. Dutmer abstaining.

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

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

DATE: 4-18-11

ATTESTED BY: Saulanne Nelson DATE: 4/20/2011
Executive Secretary