

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
May 17, 2010**

Members Present:

Michael Gallagher
Andrew Ozuna
Gene Camargo
Edward Hardemon
Helen Dutmer
Jesse Zuniga
Mary Rogers
Mike Villyard
Paul Klein
Henry Rodriguez
Harold Atkinson

Staff:

Andrew Spurgin, AICP, Planning Manager
Rudy Niño, Jr., AICP, Senior Planner
Jacob Floyd, Planner
Michael Farber, 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. Rodriguez, arrived at 1:02 p.m.

CASE NO. A-10-032

Applicant – Jose Lopez
Lot 4, Block 6, NCB 6094
215 Elmhurst Avenue
Zoned: “MF-33 NCD-6 AHOD” Multifamily Mahncke Park Neighborhood Conservation Airport Hazard Overlay District

The applicant is requesting for a special exception to locate a residential structure from 20387 U.S Highway 281 South to 215 Elmhurst Avenue.

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 Mahncke Park Neighborhood Association.

Jose Lopez, applicant, stated the house will look like his house down the street after renovating this house. He also stated he is hoping to finish the renovations within the six months. He further stated he has a petition from the neighbors stating that they are in support of the house move and renovations.

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-10-032 closed.

Motion

A motion was made by **Mr. Ozuna**. Re Appeal No **A-10-032**, application for **Jose Lopez**. subject property is **215 Elmhurst Avenue, Lot 4, Block 6, NCB 6094**, located again at **215 Elmhurst Avenue** I move that the Board of Adjustment grant the applicant's request regarding Appeal No **A-10-032**, application for a special exception 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 in UDC 35-399.03 and the applicant's request is **a special exception to relocate a residential structure to the property located at 215 Elmhurst Avenue**. 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 repair the house to meet all city codes. 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 and existing zoning to remain. 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 weaker 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 district or the regulations herein established for the specific district. The community plan calls for the development of this parcel for Urban Single-Family Residential use. This request is consistent with that land use designation. Additionally, the structure proposed to be relocated is of similar style and construction as the existing structures on adjacent lots. Any exterior repairs proposed by the applicant would be required to be consistent with the NCD-6 design standards. We also received a list from the neighbors that supported the request. The motion was seconded by Mr. Klein.**

AYES: Ozuna, Klein, Zuniga, Rodriguez, Rogers, Hardemon, Atkinson, Camargo, Dutmer, Villyard, Gallagher
NAY: None

THE VARIANCE WAS GRANTED.

CASE NO. A-10-034

Applicant – Image Homes, Ltd.
Lot 39, Block A, NCB 16385
21102 West Tejas Trail
Zoned: “R-20 MLOD-1 AHOD” Residential Single-Family Military Lighting Airport Hazard Overlay District

The applicant is requesting a 3-foot variance from the requirement that predominantly open front-yard fences not exceed 3 feet in height, in order to erect a 6-foot tall solid-screen front-yard fence.

Michael Farber, Planner, presented background and staff’s recommendation of denial of the requested variance. He indicated 9 notices were mailed, one was returned in favor and none were returned in opposition and the Forest Crest Neighborhood Association is in favor.

Randy McConnell, applicant, stated they are doing significant improvements of this property. He also stated some of the property have five-foot wire type agricultural fences and some of the other properties have brick or stone columns with six-foot iron fencing. The owner is trying to give this property a better curve appeal. He further stated the in some cases there is about 20 feet of stonewall and twenty to thirty feet of iron fencing which they will blending the two materials and are planning to put landscaping in the areas where there is wrought iron fencing to provide some privacy around the opening areas.

The following citizens appeared to speak:

William Powers, citizen, spoke neither in favor or 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-10-034 closed.

MOTION

A motion was made by **Mr. Camargo**. I would move that in Case No **A-10-034**, applicant being **Image Homes, Ltd.**, on property known as **21102 West Tejas Trail**, also legally described as **Lot 39, Block A, NCB 16385**, be granted a **3-foot variance from the requirement that predominantly open front-yard fences not exceed 3 feet in height, in order to erect a 6-foot tall solid-screen front-yard fence as per exhibit and site plan submitted**. I include that in the motion as been pointed out there is only portions of this fencing that in fact are 6-foot in height and solid where as other sections are open iron fences and that the applicant has

stated that approximately 65% of the proposed structure is in fact open. Specifically we find that such variance will not be contrary to the public interest in that there was no notices returned in opposition. There was a gentlemen, adjacent property owner, that did speak and I did not personally consider that to be an objection but a concern as far the use of the property which city staff would look into to ensure that it is a residential use and also concerns of drainage which the applicants representative has indicated that they do not plan to alter the current drainage situation. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that this particular area appears to be a rural open wooded area and the applicant's representative has indicated that there is a feeling by the owner of the property that the property needs to be secured in a manner which has been presented. The spirit of the ordinance will be observed and substantial justice will be done in that the variance that is being requested is not something that is incompatible with the neighborhood and that it is not a totally solid wall across the property line but in fact a well designed proposed structures of iron and concrete blocks that is not to be on the front property line but setback some distance from the front property line in part due to a easement that the applicant's representative has indicated. The granting of the variance will not authorize the use of other uses that are not specifically allowed in the "R-6" zoning classification and it is an intention to continue to use the existing structure in part for storage and for residential use and correction it is an "R-20" Residential Single-Family District. It appears that the granting of the variance will not alter the character of the neighborhood in that there appears to be other similarly constructed fences near the subject property. The plight of the owner is justified in that requesting a variance to construct a fence and wall has been submitted by the applicant and that the variance is very well justified. The motion was seconded by Ms. Rogers.

AYES: Camargo, Rogers, Hardemon, Villyard, Rodriguez, Zuniga, Ozuna, Klein, Gallagher

NAY: Atkinson, Dutmer

THE VARIANCE WAS GRANTED.

CASE NO. A-10-035

Applicant – Bar P Cattle Company

Lots P-2a, P-2D, P-3D P-1, P-24, and P-136, NCB 17365

17189 Classen Road

Zoned: "C-2 ERZD AHOD" Commercial Edwards Recharge Zone Airport Hazard Overlay District, C-2" Commercial Airport Hazard Overlay District and "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District

The applicant is requesting 1) a 4-foot variance from the requirement predominantly open front-yard fences not exceed 4 feet in height, in order to erect an 8-foot tall predominantly open front-yard fence and 2) 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 predominantly open side and rear-yard fences.

Michael Farber, Planner, presented background and staff's recommendation of denial of the requested special exception. He indicated 219 notices were mailed, 6 were returned in favor and 4 were returned in opposition.

Bobby Perez, representative, stated the reason for this request is to keep the cattle and livestock from running off the property and straying into the street. He also stated the applicant is willing to have a six-foot fence instead of an eight-foot fence on the area fronting Classen Street.

The following citizens appeared to speak:

Michael Ramirez, citizen, spoke in favor.

Doug Pape, citizen, spoke in favor.

Armando Talamantez, 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-10-035 closed.

MOTION

A motion was made by **Ms. Rogers**. Re Appeal No **A-10-035**, variance application for a **4-foot variance from the requirement that predominantly open front-yard fences not exceed 4 feet in height, in order to erect an 8-foot tall predominantly open front-yard fence and 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 predominantly open side and rear-yard fence**, subject property description is **Lots P-2A, P-2D, P-3D P-1, P-3, P-24, and P-136, NCB 17365**, located at **17189 Classen Road**, owners being **Frances O. Pape**, and the applicant the **Bar P Cattle Company**. I move that the Board of Adjustment grant the applicant's request as so stated. Specifically we find that such variance will not be contrary to the public interest in **fact it will protect the neighbors in the area. The owner is willing to work with the neighbors to ensure that trees are not cut in areas in which that they do not wish them to be cut.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **this is a classic case of ranch land being surrounded by suburban sprawl. The cause of the operations on the ranch land, that being the running of cattle and horses. Security for this livestock is necessary and not only for keeping it in but for keeping predators from without.** The spirit of the ordinance will be observed and substantial justice will be done in that **the public operations need to continue with the cattle operations and other interest of the business needs to continue with appropriate securities and to keep out predators and trespassers from creating dangerous situations such as shown in the file, the fire pits which could cause a rangeland fires and our numerous droughts here in South Texas which would not only damage their property but spread to the suburban areas.** 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 this variance in no way would not authorize a use other than what there are specifically permitted in zoning districts that encompass this property.** 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 **most importantly here trespassers will be less likely to enter this property. Again I state the shows photos of fire pits that were created, the danger of children on the ponds, which endangers the neighbors rather than as much as the ranch land itself. It does appear that the granting of this variance would injure the appropriate use of the conforming property.** 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 **since 350 acres ranch land are now being surrounded by single-family residence. The owner did not create this situation but is having to protect himself from this urban sprawl in order to maintain his business and safety of the livestock, and the people living on the ranch. This will actually create a healthy, safety, and welfare for the neighbors as well. We recognize that barbwire exist on the front line. The motion** seconded by Mr. Zuniga.

AYES: Rogers, Zuniga, Hardemon, Rodriguez, Camargo, Dutmer, Atkinson, Ozuna, Klein, Gallagher

NAY: Villyard

THE VARIANCE WAS GRANTED.



Board members took a 10-minute recess.



CASE NO. A-10-036

Applicant – RH of Texas LTD Partnership
 Lot 13, Block 4, NCB 17616
 8915 Hanover Forest
 Zoned: “R-6 ERZD” Residential Singe-Family Edwards Recharge Zone District

The applicant is requesting a 250 square-foot variance from the requirement that lots in “R-6” zoning districts maintain a minimum lot size of 6,000 square feet, in order to keep an existing lot that is 5,750 square feet.

Michael Farber, Planner, presented background and staff’s recommendation of approval of the requested variance. He indicated 30 notices were mailed, 14 were returned in favor and none were returned in opposition.

Paul Denham, representative, stated the engineering company shifted some of the lot lines to avoid getting rid of some very large trees in the front yard. He also stated there was a lot of support from the neighbors in the subdivision.

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-10-036 closed.

MOTION

A motion was made by **Mr. Camargo**. I would like to move that in Case **A-10-036**, the request of **RH of Texas LTD Partnership**, requesting a variance on property known as **8915 Hanover Forest**, also legally described as **Lot 13, Block 4, NCB 17616**, be granted a **250 square foot variance from the requirement that all lots in "R-6" zoning classification maintain a minimum lot size of 6,000 square feet, in order to keep an existing lot that is 5,750 square feet in size**. It is felt that the variance will not be contrary to the public interest in that **the 30 something notices that were mailed out to the adjacent property owners, fourteen notices were returned but as stated by the applicant's representative, in fact seven of those are from one owner, but in effect we have seven individual property owners return notices back in favor**. It appears that a literal enforcement of the ordinance would result in unnecessary hardship in that **the current dimensions of the lot were adopted along with the rest of the subdivision plat and approved by the City of San Antonio**. By granting the variance the spirit of the ordinance will be observed and substantial justice will be done in that **the applicant would be deniable the reasonable use of the property without the granting of the variance that is being requested**. The granting of the variances will not authorize the use of those specifically allowed in the **"R-6" classification and that the property is proposed to be developed as a single family home**. 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 side of the subject property does not alter the character of the neighborhood since the variance requested is a minor deviation from the minimum requirements of the UDC**. There do not appear to be unique circumstances existing on the property which result in undue hardship in through the literal enforcement of the ordinance **the property is unique in that this is one of the few properties that have been approved in a previous subdivision plat that is a few square feet short of the minimum 6,000 square foot requirement**. Staff did recommend approval of the requested variance. The motion seconded by **Mr. Rodriguez**.

AYES: Camargo, Rodriguez, Villyard, Hardemon, Rogers, Klein, Zuniga, Dutmer, Ozuna, Atkinson, Gallagher

NAY: None

THE VARIANCE IS GRANTED.

CASE NO. A-10-037

Applicant – Brown and Ortiz, P.C.

Lot P-3, NCB 15911

North IH-35 & Crosswinds Way

Zoned: “C-3 IH-1 AHOD” General Commercial Northeast Gateway Corridor Airport Hazard Overlay District

The applicant is requesting a twenty-nine and six-tenths percent (29.6%) variance from the requirement that the window/public entry façade for buildings with a gross floor area of less than 25,000 square feet be at least fifty percent (50%) of the first floor street frontage, in order to erect a structure with twenty and four-tenths percent (20.4%) window/public entry façade on the first floor street frontage.

Jacob Floyd, Planner, presented background and staff’s recommendation of denial of the requested variance. He indicated 9 notices were mailed, none were returned in favor and none were returned in opposition.

Patrick Christensen, applicant, stated they meet the fifty percent glass requirement of the caretaker suite. He also stated this variance would help with security due to numerous break-ins at 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-10-037 closed.

MOTION

A motion was made by **Mr. Rodriguez**. Re Appeal No **A-10-037**, the applicant being **Brown and Ortiz, P.C.**, location **North IH-35 & Crosswinds Way**, legal description **Lot P-3, NCB 15911**, zoning **“C-3 IH-1 AHOD” General Commercial Northeast Gateway Corridor Airport Hazard Overlay District**, the applicant is requesting a **29.6% variance from the requirement that the window/public entry façade for buildings with a gross floor area of less than 25,000 square feet be at least 50% of the first floor street frontage, in order to have 20.4 percentage window/public entry façade of the first floor street frontage**. I move that this Board approves the variance for the applicant, in that the variance to the 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 variance will be in tuned to the proper zoning**. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **this particular business which is bingo is a very valuable asset to communities everywhere. They are all mom and pop operations. They do tremendous; they provide a great deal of charity contributions to organizations that can really use them.** The spirit of the ordinance is

observed and substantial justice will be done in that **again this particular variance would respect the proper zoning.** 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 **it will specifically be used for the very purpose of respecting the zoning and will not in any way, shape, or form be detrimental to that area.** 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 this particular property, this particular business is in conformity with all the surroundings in 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 this is specifically a situation where these bingo people offer a much needed resources to those that are in need of such. This variance only applies to building one.** The motion seconded by Ms. Dutmer.

AYES: Camargo, Zuniga, Hardemon, Rogers, Dutmer, Cruz, Victor, Moffat, Britton, Ozuna, Gallagher
NAY: None

THE VARIANCE WAS GRANTED.

Sign Master Plan No. 10-009

Arturo Elizondo, Sign Inspector, briefed Board Members on Sign Master Plan for Huebner Office Park, located at 9711 Huebner Road.

Mr. Ozuna made a motion to approve **Sign Master Plan No. 10-009** and was seconded by **Mr. Klein.**

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

THE SIGN MASTER PLAN WAS APPROVED.

Rudy Niño, Jr, Senior Planner, briefed board members on potential amendments to Unified Development Code.

Ms. Rogers made a motion to approve the amendment to **Sec. 35-399.03 Relocation of Buildings and Structures** and **Mr. Villyard** seconded with all board members voting in the affirmative.

Ms. Dutmer made a motion to approve the amendment to **Sec. 35-406 Revocation of Permit or Approval** and **Mr. Zuniga** seconded with all board members voting in the affirmative.

Mr. Camargo made a motion to approve the amendment to Sec. 35-480 Generally and Mr. Villyard seconded with all board members voting in the affirmative.

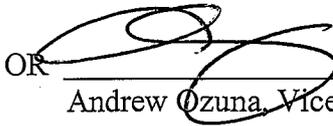
Mr. Zuniga made a motion to approve the amendment to Sec. 35-399.01 and Mr. Hardemon seconded with all board members voting in the affirmative with the exception of Ms. Dutmer.

Approval of the April 19, 2010 Minutes

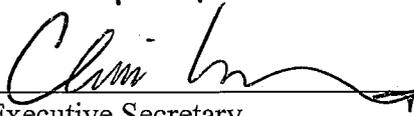
The April 19, 2010 minutes were approved with all members voting in the affirmative.

There being no further discussion, meeting adjourned at 4:24 p.m.

APPROVED BY: _____
Michael Gallagher, Chairman

OR  _____
Andrew Ozuna, Vice-Chair

DATE: 6/21/10

ATTESTED BY:  _____
Executive Secretary

DATE: 6-30-10