

**BOARD OF ADJUSTMENT  
OFFICIAL MINUTES  
November 2, 2009**

Members Present:

Michael Gallagher  
Andrew Ozuna  
Gene Camargo  
Liz Victor  
Edward Hardemon  
Helen Dutmer  
George Britton  
Mary Rogers  
Mike Villyard  
Paul Klein  
Maria Cruz

Staff:

Fernando De León, Assistant Director  
Rudy Niño, Jr., 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. Ozuna made a motion to move Case No A-09-095 to end of the agenda. Mr. Villyard seconded the motion and all members voted in the affirmative.

---

**CASE NO. A-09-092**

Applicant – George Vaughn  
Lots 1 through 12, Block 6, NCB 6386  
325 West Lynwood  
Zoned: “R-5 H” Residential Single-Family Monte Vista Historic District

The applicant is requesting for 1) a 3-foot variance from the requirement that solid fences in front yards not exceed 3 feet in height, in order to erect a 6-foot tall solid fence in the front yard and 2) a 2-foot variance from the requirement that predominantly open front-yard fences not exceed 4 feet in height, in order to erect a 6-foot tall predominantly open front-yard fence.

Mike Farber, Planner, presented background and staff’s recommendation of denial of the requested variances. He indicated 30 notices were mailed, 3 were returned in favor and none were returned in opposition and no official response from the Monte Vista Historic Association.

Anna Glover, Office of Historic Preservation, stated a 30-inch wall was approved at the HDRC and the wall on the west side was not going to be considered. The fence along West Lynwood was to be lowered by 44 inches and where the gate meets it was going to be 6 feet on the corner and stepped down to meet the gate at 44 inches.

Alberto Cantu, representative, stated that they have approval from the Monte Vista Review Board and from the San Antonio Historical Design Review Board. He also stated they are trying to preserve the house with the new direction the city is taking. They are asking for a 44 inch wall.

The Chair asked a board member to make a motion to hear this case after the next case.

**MOTION**

A motion was made by **Mr. Villyard** made a motion to hear this case after the next case. The motion seconded by **Mr. Hardemon**.

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

**NAY: None**

**THE MOTION WAS GRANTED.**

**CASE NO. A-09-094**

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

The applicant is requesting 1) an 18-foot, 2-inch variance from the requirement that a minimum 20-foot platted front setback be maintained (recorded in Volume 8900, Page 67 of the Bexar County Land Records), in order to keep a carport 1 foot, 10 inches from the front property line and 2) an 8-foot, 2-inch variance from the requirement that a minimum 10-foot front setback be maintained, in order to keep a carport 1 foot, 10 inches from the front property line.

Mike Farber, 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 is listed inactive in the city’s list of registered neighborhood associations.

Margie Conatser, applicant, stated due to her illnesses there is not sufficient enough room for her in the garage for her to transfer into her vehicle so she decided to build a carport. She also stated this would shelter her from the rain. She further stated she measured the property line from the curbside and not from the sidewalk.

**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-09-094 closed.

**MOTION**

A motion was made by **Ms. Rogers**. Re Appeal No A-09-094, variance application for an **18-foot, 2-inch variance from the requirement that a minimum 20-foot platted front setback be maintained (recorded in Volume 8900, Page 67 of the Bexar County Land Records), in order to keep a carport 1 foot, 10 inches from the front property line as well as an 8-foot, 2-inch variance for the requirement that a minimum 10-foot front setback be maintained, in order to keep a carport 1 foot, 10 inches from the front property line**, subject property description is **Lot 52, Block 5, NCB 16291, situated at 5822 Champions Hill Drive**, the application being **Margie Conatser**. I move that the Board of Adjustment grant the applicant's request regarding Appeal No **A-09-094**, 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 UDC, 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 applicant has attempted to obtain the necessary permits prior to the construction of the carport in question. It does not appear that the continued existence as it is currently situated on the property will create a situation that would be detrimental to the public. In addition it does adversely affect the character of the area.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship **because the property is situated along a curve in a cul-de-sac and being that it is situated in such a manner, the front-yard of the subject property is more diminished than that of those on nearby properties. Literal enforcement of the front yard platted setback standards would create a situation in which the applicant would not be able to erect a carport. It does not cause a sight problem.** By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done in that **the applicant would not be able to erect a carport give the platted front setback and being as this property is located in a cul-de-sac, the 20 foot platted setback greatly reduces the utility of the lot in terms of space in the front yard and therefore, the spirit of the ordinance would be met in that this property would be able to enjoy a reasonable amount of usable space in the confines of the cul-de-sac.** 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 would not authorize a use other than those specifically permitted in "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 injure the appropriate use of adjacent conforming property and there were no objections received from the neighbors.** 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 **because the front-yard of the subject property is somewhat diminished**

due to the irregular shape within the cul-de-sac. Additionally, the applicant attempted to obtain the appropriate permits for structure and the applicant cites a possible miscommunication with the permit clerk that may have led to the incorrect application submittal. The motion seconded by Ms. Cruz.

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

**NAY:** None

**THE VARIANCES ARE GRANTED.**

---

**CASE NO. A-09-092**

Applicant – George Vaughn  
Lots 1 through 12, Block 6, NCB 6386  
325 West Lynwood  
Zoned: “R-5 H” Residential Single-Family Monte Vista Historic District

The applicant is requesting for 1) a 3-foot variance from the requirement that solid fences in front yards not exceed 3 feet in height, in order to erect a 6-foot tall solid fence in the front yard and 2) a 2-foot variance from the requirement that predominantly open front-yard fences not exceed 4 feet in height, in order to erect a 6-foot tall predominantly open front-yard fence.

Mike Farber, Planner, briefed the board members on the listed variances.

Albert Cantu, representative, stated that this has been done in the neighborhood before and has been approved. He also stated they are requesting the wall for noise abatement and the way the house was designed it does not have a rear or front yard. The wall would also allow the applicant to be enjoyment of his house by being able to open the drapes on the windows and remove the plywood that is on their window. He further stated the remainder in the east would fall in with architecture of the yard.

**The following citizens appeared to speak:**

Barbara Witt-Howell, 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-09-092 closed.

**MOTION**

A motion was made by **Mr. Ozuna**. Re Appeal No **A-09-092**, variance application for **George Vaughn**, subject property address **325 West Lynwood**, subject property description **Lots 1 through 12, Block 6, NCB 6386**, situated again at **325 West Lynwood**, the applicant is **George Vaughn**. I move that the Board of Adjustment grant the applicant’s request regarding Appeal No **A-09-092**, 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. **The variance application is as shown in the exhibit. I would like to enter the exhibit as part of the variance request and I would try to verbalize the variance request. On the west side the applicant is seeking a 3-foot variance for 15-foot 2-inch wall of 6-feet that borders San Pedro Avenue. On the west side the applicant is seeking a 3-foot variance for a span of 6-feet and then an 18-inch variance for a span of 84-feet for a wall that is to be built at 4-feet 6-inches and also I would like to enter this exhibit as part of the variance request. 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 variances will not be contrary to the public interest. It does not appear that the proposed fence would create a visual obstruction to the neighboring properties. The applicant has provided neighborhood support and letters supporting the project. In addition letters from the HDRC which support the project as well as the Monte Vista Association. 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. The property possesses unique topographic characteristics that would necessitate a fence of excessive height. The applicant provided evidence here that the fence would shield noise and visual from San Pedro Avenue to provide a quiet enjoyment of the applicant's property. By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done in that it does appear that the granting of the variances would observe the spirit of the ordinance. The applicant will be denied the quiet enjoyment of the use of the property without granting of these variances. 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 these variances would not authorize the use other than those specifically permitted in the existing "R-5" 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 it does not appear that the granting of this variance would injure the appropriate use of adjacent conforming property. The granting of these variances will not alter the character of the district in that front yard fences are a common feature of the surrounding properties as provided documentation by the applicant. 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 it does appear unique there are unique circumstances existing on the property which resulted in an undue hardship through the literal enforcement of the ordinance. The applicant's rationale of greater security and noise mitigation are sufficient to warrant the variance. The applicant has provided evidence to suggest that the additional fence height would serve to lower the noise level experienced by the property owners. Creative vegetation plantings along the front side of the property lines would not serve the purpose. The motion seconded by Ms. Dutmer.**

**AYES: Ozuna, Dutmer, Gallagher**

**NAY: Villyard, Victor, Klein, Rogers, Hardemon, Camargo, Britton, Cruz**

**THE VARIANCES ARE NOT GRANTED.**

**Board members recessed for 10 minutes.**

**CASE NO. A-09-099**

Applicant – Grover M. Richards Jr.  
Lot 132, Block 6, NCB 17000  
13706 Wilderness Creek Drive  
Zoned: “R-6” Residential Single-Family District

The applicant is requesting a 1-foot, 11-inch variance from the requirement that accessory detached dwelling units have a minimum 5-foot setback from rear and side property lines, in order to keep an accessory detached dwelling unit 3 feet, 1 inch from the east side property line.

Jacob Floyd, Planner, presented background and staff’s recommendation of denial of the requested variance. He indicated 35 notices were mailed, one was returned in favor and none were returned in opposition and no response from the Castle Hills Forest Neighborhood Association.

Melvin M Richards, representative, stated the reason for this variance is to house his schizophrenia brother to live. He also stated the applicant’s parents were moved here from Louisiana and the father asked him to build an accessory structure for him to live due to him making it difficult for his parents because of his illnesses. They wanted to keep him in a home safe environment near the parents and not to be burden on the healthcare system. He further stated the applicant has made mistakes and they have not impacted the neighbors.

**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-09-099 closed.

**MOTION**

A motion was made by **Mr. Camargo**. I would like to move that in Appeal **A-09-099**, the request of **Grover M Richards Jr.**, on property legally known as **Lot 132, Block 6, NCB 17000**, also known as **13706 Wilderness Creek Drive**, be approved for a **1-foot 11-inch variance from the requirement that a minimum 5-foot side yard setback be maintained for this single-family dwelling in this “R-6” zoning classification**. Such variance will not contrary to the public interest in that **notices sent out reflect that there was one in favor and none in opposition**. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the applicant has stated that in order to preserve an existing**

**tree the property was built in the manner in which we have before us today. The spirit of the ordinance is observed and substantial justice is done in that the applicant has stated the dire need for having a second detached dwelling located on the site as was constructed. Such variance will authorize the operation of a use other than those uses specifically authorized for the district in which the subject property is located in that we have inquired to that and that respect and it is my understanding that in this "R-6" classification this type and size of dwelling is permitted in the "R-6" zoning classification. 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 would not affect the adjacent conforming property in that due to the nearness of this structure to the property line other codes, other than 35, such as building codes will come into play to ensure fire protection to adjacent properties. 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 when in fact it's not anything unique to the property. The applicant has stated the unique situation that this family has and although I don't feel that it is an excuse or should be held as an excuse for such construction when individuals constructing structures of this size should be fully aware of city code requirements as far as setbacks and codes. The motion seconded by Mr. Hardemon.**

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

**NAY: None**

**THE VARIANCE WAS GRANTED.**

**CASE NO. A-09-0100**

Applicant – Mark Fritz  
Lot 135, Block 1, NCB 17339  
5423 Hamilton Wolfe  
Zoned: "C-3" General Commercial District

The applicant is requesting a parking space adjustment from the standard that a skilled nursing facility with 60 beds be allowed a maximum 60 parking spaces, in order to construct 75 parking spaces.

Jacob Floyd, Planner, presented background and staff's recommendation of approval of the requested parking adjustment. He indicated 12 notices were mailed, one was returned in favor and none were returned in opposition.

Jeff Tondre, representative, stated that the applicant did some research and independently came out that approximately 55 parking spaces would be adequate to service their needs. He also stated that in the late summer they began to experience parking problems and about 70 percent of their beds were full. He further stated that they would have patients that have been released do

come back for short-term rehabilitation. The facility also has a private dining room for the patients to dine with their family. He further stated there have been several citations from the fire marshal for visitors being parked on the parking lane.

**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-09-100 closed.

**MOTION**

A motion was made by **Mr. Villyard**. Re Appeal No **A-09-100, parking adjustment application for the Remington Medical Resort of San Antonio LLC**, located at **5423 Hamilton Wolfe**, legal description is **Lot 135, Block 1, NCB 17339**, and the applicant's representative is **Jeff Tondre**, the applicant is **Mark Fritz**. I move that the Board of Adjustment grant the applicant's request regarding Appeal No. **A-09-100**, application for a parking adjustment 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 a literal enforcement of the provisions of the Unified Development code, as amended, would result in a hardship. Specifically, we find that the literal enforcement of the parking regulations would result in a hardship in that **there is considerable traffic in and around the healthcare facility and that many of the parking spaces will be taken by the employees rather than by families and visitors to the residents of the facility**. The motion seconded by **Ms. Rogers**.

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

**NAY: None**

**THE PARKING ADJSUTMENT IS GRANTED.**

**CASE NO. A-09-095**

Applicant – Jesus Millan  
Lot 12, NCB 7028  
927 Chicago Boulevard  
Zoned: "R-4" Residential Single-Family District

The applicant is requesting a 2-foot variance from the requirement that a minimum 5-foot side setback be maintained in "R-4" zoning districts, in order to keep an existing structure 3 feet from the east side property line.

The Chair asked a board member to make a motion.

**MOTION**

A motion was made by **Ms. Dutmer** made a motion to table Case No A-09-096 to the next available meeting on December 7, 2009. The motion seconded by **Ms. Victor** and board members voted in the affirmative.

**THE MOTION PASSES.**

**Sign Master Plan No. 10-002**

Arturo Elizondo, Sign Inspector, briefed Board Members on Sign Master Plan for The Oaks at University Business Park, located at Network and Silicon.

**Mr. Camargo** made a motion to approve **Sign Master Plan No. 10-002** and was seconded by **Ms. Cruz** and all members voted in the affirmative.

**THE SIGN MASTER PLAN WAS APPROVED.**

**Sign Master Plan No. 10-003**

Arturo Elizondo, Sign Inspector, briefed Board Members on Sign Master Plan for Richland Hills at Loop 410, located at Richland Hills Drive and Southwest Loop 410.

**Ms. Rogers** made a motion to approve **Sign Master Plan No. 10-003** and was seconded by **Ms. Cruz** and all board members voted in the affirmative.

**THE SIGN MASTER PLAN WAS APPROVED.**

**Consideration of the 2010 Board of Adjustment public hearing calendar.**

**Ms. Rogers** made a motion to approve the **2010 Board of Adjustment public hearing calendar** with an addition to add a meeting on January 11, 2010 and was seconded by **Mr. Hardemon** and all board members voted in the affirmative.

There being no further discussion, meeting adjourned at 3:53 p.m.

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

DATE: 11-16-09

ATTESTED BY: [Signature] DATE: 11/17/09  
Executive Secretary