

**BOARD OF ADJUSTMENT  
OFFICIAL MINUTES  
November 29, 2010**

Members Present:

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

Staff:

Christopher Looney, Interim Asst. Director  
Andrew Spurgin, AICP, Planning Manager  
Rudy Niño, Senior Planner  
Jacob Floyd, Planner  
Paul Wendland, City Attorney

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**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.

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**CASE NO. A-10-072**

Applicant – Martin Collazo

Lots 49, 50 and the west 7.5 feet of Lot 48, Block 8, NCB 7077

447 Alexander Hamilton

Zoned: “R-6 NCD-7 AHOD” Residential Single-Family Jefferson Neighborhood Conservation Airport Hazard Overlay District

The applicant is requesting **1)** a 6-foot variance from the “NCD-7” district requirement that driveway curb cuts not exceed 15 feet in width, in order to keep a driveway curb cut with a width of 21 feet; **2)** a 7-foot variance from the “NCD-7” district requirement that driveways be no more than 12 feet in width, in order to keep a driveway with a width of 19 feet; and **3)** a 22 percent variance from the “NCD-7” district requirement that impervious cover for all residential lots not exceed 50 percent of the total lot area, in order to allow 64 percent of the total lot area to be impervious cover.

Jacob Floyd, Planner, presented background and staff's recommendation of denial of the requested Special Exception and variance. He indicated 26 notices were mailed, none were returned in favor and one was returned in opposition and no response from Jefferson Neighborhood Association.

Martin Collazo, applicant, stated he replaced an existing driveway and did not change it or widened it. He also stated the due to the driveway being broken up, water gets in to his house. He further stated there are several driveways in the area that are the same.

**The following citizens appeared to speak:**

San Antonio Conservation Society 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-10-072 closed.

**1<sup>st</sup> MOTION**

A motion was made by **Mr. Ozuna**. Re Appeal No **A-10-072**, variance application for **447 Alexander Hamilton**, subject property description is **Lots 49-50 and the west 7.5 feet of Lot 48, Block 8, NCB 7077**, situated at **447 Alexander Hamilton**, with the applicant being **Martin Collazo**, the applicant request is for **1) a 6-foot variance from the "NCD-7" district requirement that driveway curb cuts not exceed 15 feet in width, in order to keep a driveway curb cut with a width of 21 feet; 2) a 7-foot variance from the "NCD-7" district requirement that driveways be no more than 12 feet in width, in order to keep a driveway with a width of 19 feet; and 3) a percent variance from the "NCD-7" district requirement that impervious cover for all residential lots not exceed 50 percent of the total lot area, in order to allow 64 percent of the total lot area to be impervious cover.** I move that the Board of Adjustment grant the applicant's request regarding Appeal No **A-10-072**, 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 is not contrary to the public interest in that **the granting of the variance is not contrary to the public interest because as the applicant made testimony before us today he replaced the existing driveway structure and did not increase the ecstastic footprint of concrete before. The applicant also showed us through pictures that the 21 foot driveway is consistent throughout the Jefferson area planning district. Additionally the public interest is well served by the property owner replacing with the new driveway versus the broken up driveway that was with the existing condition which provided a hazard to people entering the property** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **there exists special conditions that would constitute an unnecessary hardship in that the applicant was trying to replace an existing driveway with the same footprint that existed before and with that might correct some water that was coming into his property to prevent any further deteoration of the property.** The spirit of the ordinance is observed and substantial justice is done in that **the request appears to support the spirit or the ordinance. Again the applicant**

was replacing an existing exact configuration of the driveway with new construction that was safer. 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 applicant is not proposing a use that is not authorized in the current "R-6" base 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 **again the existing condition of the property was such that a 20-foot 1-foot driveway was merely replaced by the actions of the applicant who was not adding on to or increasing the impervious cover and in his mind merely replacing the existing driveway.** 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 was not aware of the fact of the conservation district and proceeded with the improvement to replace the driveway.** The motion was seconded by **Mr. Camargo.**

**AYES: Ozuna, Camargo, Dutmer, Hardemon, Cruz, Britton, Zuniga, Gallagher**

**NAY: Villyard, Rogers, Klein**

**BEFORE THE RESULTS WERE ANNOUNCED MR. CAMARGO MADE THE FOLLOWING SUBSTITUE MOTION.**

A motion was made by **Mr. Camargo.** I would like to make a second motion and that motion would be to **approve the variance request No. 1 and No. 2 that address the width of the approaches,** at property located at **447 Alexander Hamilton,** also know as **Lots 49, 50,** and the west **7.5 feet of Lot 48, Block 8, NCB 7077.** The request of 1 and 2 are those variances being requested where the previously existing driveway approaches were replaced in fact without a permit. It has been stated by the applicant's representative that apparently through some misunderstanding by the applicant thought that was no permit required since none is required inside the property line. But besides that I feel that the variance is not contrary to the public interest in that **to the one notice and only one notice out of the several notices that were mailed was returned in opposition and that was to the effect, not the driveway approaches, but to some existing rebar on the property that the property owner feared would be used for something other than they were not in agreement with.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **this variance should be granted in the fact that the driveways that were reconstructed were in fact replacement and more than like an improvement to that which existed on the property.** The spirit of the ordinance is observed and substantial justice is done to an individual who has merely replaced that what previously existed and is in compliance with **40% of the other development in the area.** 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 would not authorize the operation of a use that is not permitted in the zoning classification in that this is a single family home and will continue to be used as such.** 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 a very important finding of fact, essential character of the district, and that refers, in my

**opinion, back to with a character within a character of the 40% of the residences in this 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 **this property which is somewhat a some seventy years old and I am not saying that the driveway approaches are seventy years old but the structure that exists on the property would normally be considered historic has had on this location driveway approaches that exceed the new neighborhood conservation regulations.** The motion was seconded by **Ms. Dutmer.**

**AYES: Camargo, Dutmer, Hardemon, Ozuna, Cruz, Gallagher**

**NAY: Villyard, Klein, Rogers, Zuniga, Britton**

**THE MOTION FAILS.**

**THE CHAIR ANNOUNCED THE ORIGINAL MOTION FAILED AS WELL.**

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**CASE NO. A-11-002**

Applicant – City of San Antonio – Capital Improvement Management Services Department  
The south 32.74 feet of Lot 1; the south 12.26 feet of Lots 2,3, and 4; and all of Lots 8 through 21, Block 7, NCB 2113  
2059 W. Poplar  
Zoned: “I-1 AHOD” General Industrial Airport Hazard Overlay District

The applicant is requesting **1)** a 20-foot variance from the requirement that a 30-foot buffer be provided in an “I-1” zoning district when abutting a “C-2” district and **2)** a complete variance from the requirement for a 6-foot tall solid fence in Type E buffers in order to allow a 6-foot tall predominantly open fence.

Jacob Floyd, Planner, presented background and staff’s recommendation of approval of the requested variances. He indicated 14 notices were mailed, none were returned in favor and none were returned in opposition and no response from Vance Jackson Neighborhood Association.

Tanya Gunn, representative, stated the traffic around the are drive on the curbs. She also stated the vacant property is currently used as additional parking by the community center. She further stated the buffer would allow them to put landscaping in between the fencing and the curbs..

**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-11-002 closed.

## MOTION

A motion was made by **Mr. Ozuna**. Re Appeal No A-11-002, variance application for **2059 W Poplar Street**, subject property description is **the south 32.74 feet of Lot 1; the sought 12.26 feet of Lots 2, 3, and 4; and all of Lots 18 through 21, Block 7, NCB 2113**, again situated at **2059 W Poplar**, and the applicant is **City of San Antonio – Capital Improvement Management Services Department**, the variance request is for **1) a 20-foot variance from the requirement that a 30-foot buffer be provided in an “I-1” zoning district when abutting a “C-2” district and 2) a 1-foot variance from the requirement that fences in side and rear yards not exceed 6 feet in height, in order to erect a 7-foot tall fence in the side and rear yards**. I move that the Board of Adjustment grant the applicants request regarding appeal number **A-11-002**, 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 is not contrary to the public interest in that **the granting of this variance is not contrary to the public interest as the current zoning scheme in this general area is incompatible with the current property usage and general location. The buffer requirements would not be as extensive if the properties were zoned appropriately. Additionally staff supports the findings of the historic preservation officer that the fence along the east property be erected using wrought iron material as such staff supports the request for a predominantly open 6-foot fence. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that the current zoning scheme in the general area creates a significant special condition worthy of a variance. The current incompatible zoning districts impose buffers that are in excess of those normally considered to provide reasonable separation. The spirit of the ordinance is observed and substantial justice is done in that the spirit of the ordinance would not typically support the current “I-1” zoning of the subject property, which is the result of the zoning code of 1938. Thus, substantially justice and fairness warrant a variance for this situation. 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 variance will not authorize the operation of a use other than those specifically authorized in the “I-1” 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 approval of this request would not substantially injure the use of adjacent properties. The result of the relief granted by this request would be an improved parking lot that would relieve the on-street parking congestion currently experienced. Additionally, the construction of the proposed wrought iron fence with the addition of the 10 foot landscape buffer would not substantially injure the adjoining property to the east. The plight of the owner of the property for which the variance is south 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 property owner is due to the unique zoning inconsistencies experience by this, and neighboring properties. The motion was seconded by Mr. Villyard.**

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

**THE VARIANCE WAS NOT GRANTED.**

**CASE NO. A-11-003**

Applicant – Holt Texas, Ltd.  
Lot 25, NCB 10758  
1956 South WW White Road  
Zoned: “C-3 NA” Commercial District Nonalcoholic Sales and “C-2 NA” Commercial Nonalcoholic Sales District

The applicant is requesting **1)** a 2-foot variance from the 4-foot maximum allowable front yard fence height of commercial districts in order to allow a 6-foot tall predominantly open front yard fence and **2)** a complete variance from the requirement prohibiting the use of barbed wire as a fencing material in order to allow a 6-foot tall side and rear yard fence with barbed wire.

Jacob Floyd, Planner, presented background and staff’s recommendation of denial of the requested variances. He indicated 20 notices were mailed, none were returned in favor and none were returned in opposition and the Comanche Community Neighborhood Association is in favor.

**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-11-003 closed.

**Motion**

**Mr. Villyard** made a motion to continue this case until the next regularly scheduled meeting. **Ms. Dutmer** seconded the motion with all members voting in the affirmative.

**MOTION PASSES.**

**Board members recessed for 10 minutes.**

**Mr. Gallagher** asked for a board member to make a motion to reconsider Case No A-11-003. **Mr. Klein** made a motion and **Ms. Dutmer** seconded it with all members voting in the affirmative.

**CASE NO. A-11-003**

Applicant – Holt Texas, Ltd.

Lot 25, NCB 10758

1956 South WW White Road

Zoned: “C-3 NA” Commercial District Nonalcoholic Sales and “C-2 NA” Commercial Nonalcoholic Sales District

The applicant is requesting **1)** a 2-foot variance from the 4-foot maximum allowable front yard fence height of commercial districts in order to allow a 6-foot tall predominantly open front yard fence and **2)** a complete variance from the requirement prohibiting the use of barbed wire as a fencing material in order to allow a 6-foot tall side and rear yard fence with barbed wire.

Jacob Floyd, Planner, presented background and staff’s recommendation of denial of the requested variances. He indicated 20 notices were mailed, none were returned in favor and none were returned in opposition and the Comanche Community Neighborhood Association is in favor.

Mike Puryear, representative, stated the reason for this request is for security due to vandalism and numerous breakins. He also stated these individuals have stolen copper from the air condition units.

**The following citizens appeared to speak:**

Jose Rodriguez, 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-11-003 closed.

**Motion**

A motion was made by **Mr. Camargo**. I would like to move that in Case No **A-11-003**, the applicant being **Holt Texas, Ltd.**, applying for a variance on **1956 South WW White Road**, also known as **Lot 25, NCB 10758**, on property that currently zoned **“C-2 NA” Commercial District Nonalcoholic Sales and “C-2 NA” Commercial, Nonalcoholic Sales District**, be granted a **2-foot variance from the 4-foot maximum allowable front yard fence height of commercial districts, in order to allow a 6-foot tall predominantly open front yard fence and a complete variance from the requirement prohibiting the use of barbed wire fencing material, in order to allow a 6-foot tall side and rear yard with barbed wire specifically the eastern property line which is the rear property line of this lot be slated in order to provide an opaque covering as outlined in the code and required when abutting single family residential**. It is felt that the variance is not contrary to the public interest in that **the notices mailed out apparently none were turned in opposition. There was a gentleman that appeared to voice concern as far as the appearance from his back yard to the back end of this commercial building and what was stated to Mr. Rodriguez was that a 15-foot landscape buffer is required inward towards the subject property. The applicants are**

**proposing to slat the cyclone fence in order to provide that opaque covering.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **it has been pointed out by the applicant's representative that the rear one acre site of this property, which is in the "C-2" category, is to be left open and landscaped for use by employees enjoyment.** The spirit of the ordinance is observed and substantial justice is done in that **this is a big improvement to this part of the east southeastern part of the city in which the applicant's have taken great measure to provide a substantial and fine appearing of the building in this property.** Such variance will not authorize the operation of a use other than those uses authorized **within in the zoning classification and they so intend to comply with the zoning regulations.** 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 **this property is situated along a portion of WW White Road that is predominantly zoned for commercial purposes.** 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's representative has indicated that there has been numerous vandalism occurrences on the property, the stealing of copper, the tagging of the building, etc. and for those reasons they are requesting these fencing variance to provide security on the property.** The motion was seconded by **Mr. Hardemon.**

**AYES: Camargo, Hardemon, Zuniga, Britton, Rogers, Cruz, Dutmer, Ozuna, Gallagher**

**NAY: Klein, Villyard**

**THE VARIANCE WAS GRANTED.**

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**CASE NO. A-11-004**

Applicant – Oscar Thompson  
Mid Irregular 809 Feet of Lot 1, NCB 13902  
238 Southwest Military Drive  
Zoned: "C-3 AHOD" General Commercial Airport Hazard Overlay District

The applicant is requesting a 1-foot 6-inch variance from the requirement that freestanding signs be setback a minimum of 10 feet from street rights-of-way in order to keep an existing freestanding sign 8 feet 6 inches from the street right of way.

Jacob Floyd, Planner, presented background and staff's recommendation of approval of the requested variance. He indicated 20 notices were mailed, none were returned in favor and none were returned in opposition and no response from the Harlandale Park Neighborhood Association.

Oscar Thompson, applicant, stated they want to replace the existing sign with two signs for two tenants. He also stated the shopping center is 100% leased out.

**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-11-004 closed.

**MOTION**

A motion was made by **Mr. Villyard**. Re Appeal No. **A-11-004**, variance application for a **1-foot 6-inch variance from the requirement that freestanding signs be setback a minimum of 10 feet from street rights-of-way, in order to keep an existing freestanding sign 8 feet 6 inches from the street right of way**, subject property known as **Mid Irregular 809 Feet of Lot 1, NCB 13902**, also known as **238 Southwest Military Drive**, applicant being **Oscar Thompson**. I move that the Board of Adjustment grant the applicant's request regarding this appeal 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. According to Section 28-247 of Chapter 28: Signs and Billboards, in order for a variance to be granted, the applicant must demonstrate (1) a denial of the variance would probable cause a cessation of legitimate, longstanding active commercial use of the property. **A denial of the variance may deny the smaller commercial tenants of the center the opportunity for reasonable advertisement and adequate signage.** After seeking one or more of the findings set forth in subparagraphs (1) and (2), the board states that granting the variance does not provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated. **Granting the variance would not provide the applicant with a special privilege not enjoyed by others similarly situated. The work proposed will not increase the nonconformity of the existing sign.** Granting the variance will not have a substantially adverse impact upon neighboring properties. **The granting of the variance will not have a substantially adverse impact on neighboring properties. The sign in question has existing in this location a number of years and does not encroach upon neighboring private property.** Granting the variance will not substantially conflict with the stated purposes of this article. **The granting of the variance will not substantially conflict with the stated purposes of this article. The encroachment of the sign upon the public right-of-way is not such that it hinders drive visibility.** The motion was seconded by **Ms. Dutmer**.

**AYES: Villayrd, Dutmer, Camargo, Klein, Rogers, Hardemon, Zuniga, Cruz, Ozuna, Britton, Gallagher**

**NAY: None**

**THE VARIANCE WAS GRANTED.**



**CASE NO. A-11-006**

Applicant – Scott and Ressa Weidner  
Lot 11, Block 1, NCB 19080  
8511 Knights Knoll Dr.  
Zoned: “R-5 AHOD” Residential Single-Family Airport Hazard Overlay District

The applicant is requesting a an 8-foot variance from the 20-foot minimum rear setback requirement of the “R-5” district in order to build an addition 12 feet from the rear property line.

Jacob Floyd, Planner, presented background and staff’s recommendation of denial of the requested variance. He indicated 19 notices were mailed, 5 were returned in favor and one was returned in opposition.

Tressa Weidner, representative, stated their intent is to keep with the neighborhood rather than replace something that is there and in her opinion is not historic.

**The following citizens appeared to speak:**

Jody Sherrill, 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-11-006 closed.

**MOTION**

A motion was made by **Mr. Klein**. In Appeal No **A-11-006**, this application for a **8-foot variance from the 20-foot minimum rear setback requirement of the “R-5” district, in order to build an addition 12 feet from the rear property line**, the subject property is **8511 Knights Knoll Drive**, the legal description is **Lot 11, Block 1, NCB 19080**, the zoning is **“R-5 AHOD” Residential Single Family Airport Hazard Overlay District**, the applicant is **Scott and Tressa Weidner**. I move that the Board of Adjustment grant the applicants request in case for a variance, 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 is not contrary to the public interest in that **five notices were returned in favor of the application as well as a neighbor in close proximity to the subject who attended to voice his approval of the project both as a neighbor and as a member of the architectural control committee**. Due to special conditions, a literal enforcement of the ordinance would result in an unnecessary hardship in that **the subject property abuts an existing apartment complex and more specifically the double loaded parking at the rear of the apartment complex. The parking area is heavily traveled, heavily used, and also is the location for parking of commercial vehicles as well as the permanent location for the apartment dumpsters. These special conditions in my mind as maker of the motion indicate that a literal enforcement of a 20-foot setback on this property does merit a variance.** The spirit of the ordinance is

observed and substantial justice is done in that **while the subject property is not unique in topography it does experience a special circumstance where it shares a property line with the adjoining commercial apartment project which was described earlier as far as activities that are occurring on the apartment project side.** 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 property will remain “R-5” 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 apartments will remain apartments and the outdoor living space proposed by the applicant and shown in the presentation is consistent with single family residential use.** 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 the overwriting issue in this particular case is the fact that the adjoining property is many acres in size, is apartment complex in nature, and will remain as such.** The proposed use by the applicant and by this variance will not impose any restrictions on the adjoining property. One remaining point is that in this motion and this will following through in any event is that any existing easements on the property relative to utilities should remain in place and are not affected by the variance. The motion was seconded by Ms. Dutmer.

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

**NAY: None**

**THE VARIANCE WAS GRANTED.**

#### **CASE NO. A-11-008**

Applicant – William Clay Hefty

Lot 14, NCB 6015

219 & 221 Allensworth

Zoned: “R-4 NCD-6” Residential Single-Family Mahncke Park Neighborhood Conservation District

The applicant is requesting 1) a variance from the “NCD-6” requirement that exterior building materials for additions and/or renovations match those of the existing structure in scale, proportion, placement and profile, in order to replace existing vertical siding with horizontal cedar siding; 2) a variance from the “NCD-6” requirement that exterior building materials for additions and/or renovations match those of the existing structure in scale, proportion, placement and profile, in order to replace the existing front porch roof using galvanized standing seam metal on cedar purlins and rafters atop painted steel columns; 3) a variance from the “NCD-6” requirement that roofs for additions or renovations match the pitch, configuration and style of the existing structure, in order to allow a front porch roof pitch of 3:12; and 4) a variance from the “NCD-6” requirement that exterior building materials for additions and/or renovations match

those of the existing structure in scale, proportion, placement and profile, in order to replace the existing front porch roof and columns with a new open purlin front porch roof.

Jacob Floyd, Planner, presented background and staff's recommendation of denial of the requested variances. He indicated 30 notices were mailed, one was returned in favor and none were returned in opposition and no response from Mahncke Park Neighborhood Association.

Christine Hefty, representative, stated their intent is to keep with the neighborhood rather than replace something that is there and in her opinion is not historic. She also stated they could replace the metal columns with wood columns.

### **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-11-008 closed.

### **MOTION**

A motion was made by **Mr. Ozuna**. Re Appeal No **A-11-008**, variance application for **William Clay Hefty**, at **219 & 221 Allensworth**, subject property is **Lot 14, NCB 6015**, property again situated at **219 & 221 Allensworth**, the request is for **1) a variance from the "NCD-6" requirement that exterior building materials for additions and/or renovations match those of the existing structure in scale, proportion, placement, and profile, in order to replace existing vertical siding with horizontal cedar siding; 2) a variance from the "NCD-6" requirement that exterior building materials for additions and/or renovations match those of the existing structure in scale, proportion, placement, and profile, in order to replace the existing front porch roof and columns with a new front porch roof using galvanized standing seam metal on cedar purlins and rafters atop painted wood columns; 3) a variance from the "NCD-6" requirement that roofs for additions or renovations match the pitch, configuration and style of the existing structure, in order to allow a front porch roof pitch of 3:12; and 4) a variance from the "NCD-6" requirement that exterior building materials for additions and/or renovations match those of the existing structure in scale, proportion, placement and profile, in order to replace the existing front porch roof and columns with a new open purlin front porch roof.** I move that the Board of Adjustment grant the applicants request regarding appeal number **A-11-008**, 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 is not contrary to the public interest in that **the granting of the variance is not contrary to the public interest. The work proposed will remove the existing deteriorated materials and improve the appearance of the residence.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the literal enforcement of the NCD-6 roof pitch standard in the design of the porch will result in an unnecessary hardship as the roof pitch of the existing structure is too great for practical use on a porch structure.** The spirit of the ordinance is observed and substantial justice is done in that **the granting of the variance of the material**

standards would observe the spirit of the ordinance and do the intent of the "NCD-6" design standards as we have seen testimony by the applicant about the use of the horizontal design standards throughout the neighborhood and throughout the district. The granting of the variance to the roof pitch standard would do substantial justice as the imposition of a steep pitch would substantially reduce the useable porch area. 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 variance will not authorize the 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 granting of the variance will not injure the appropriate use of adjacent conforming property in that testimony presented before us had no opposition to what the applicant was proposing.** The roof pitch variance would not alter the essential character of the district as there are **similarly pitched roofs in the vicinity.** 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 plight of the property owner is due to unique circumstances existing on the property in such that the material that they chose to use will provide some protection to the existing structure, protecting windows and the doors, and the property would be uniquely effected by the design standards if not allowed.** The motion was seconded by Mr. Klein.

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

**NAY: None**

**THE VARIANCE WAS GRANTED.**

**Approval of the November 1, 2010 Minutes**

**The November 1, 2010 minutes were approved with all members voting in the affirmative.**

**Approval of the 2011 Board of Adjustment Calendar**

**Mr. Camargo made a motion to approve the 15 meetings calendar and Ms. Cruz seconded it.**

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

**NAY: Zuniga**

**THE CALENDAR IS APPROVED.**

There being no further discussion, meeting adjourned at 4:27 p.m.

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

DATE: 1-10-11

ATTESTED BY: Christina DATE: 1-10-11  
Executive Secretary