

**BOARD OF ADJUSTMENT  
OFFICIAL MINUTES  
November 5, 2007**

**Members Present:**

Michael Villyard  
Michael Gallagher  
Ed Hardemon  
Helen Dutmer  
Gerald Yarborough  
Paul Klein  
Mary Rogers  
Andrew Ozuna  
Maria D. Cruz  
Mimi Moffat

**Staff:**

Rod Sanchez, AICP, Director  
Fernando De Leon, P. E., Asst. Dir.  
Ted Murphree, Asst. City Attorney  
Christopher Looney, Planning Manager  
David Arciniega, Planner II  
Cherise Bell, Sr Planner, Plng & Comm Dev

**Call to Order**

Pledge of Allegiance to the U.S. and Texas Flags.

Mr. Villyard, Chairman, called the meeting to order and called roll of the applicants for each case.

Christopher Looney, Planning Manager, presented Mr. Rene Balderas, former Board of Adjustment member, with a plaque.

**CASE NO. A-07-102PP**

Applicant – John L. Wilson  
Lot 3, Block 1, NCB 15858  
9665 Marbach Road  
Zoned: "I-1" General Industrial District, "C-2" Commercial District and "RM4"

The applicant is requesting an 8-foot, 3-inch variance from the minimum 30-foot side setback required in "I-1" zoning districts, in order to build a structure 21 feet, 9 inches from the side property line.

David Arciniega, Planner, presented background and staff's recommendation of denial on this case. He indicated 64 notices were mailed, 4 notices were returned in favor and 5 notices were returned in opposition.

John L. Wilson, applicant, requested he wanted a continuance until the next available date.

**THE MOTION CARRIED.**

**CASE NO. A-08-001**

Applicant – U.S. Signs  
Lot 16, NCB 8607  
7010 South Zarzamora Street  
Zoned: “C-3” General Commercial District

The applicant is requesting a 32-foot variance from the requirement that single-tenant, free-standing, on-premise signs shall remain 150 feet apart from other single-tenant, free-standing, on-premise signs, in order to erect a single-tenant, free-standing, on-premise sign 118 feet from another single-tenant, free-standing, on-premise sign.

David Arciniega, Planner, presented background and staff’s recommendation of denial of this variance. He indicated that there were 13 notices mailed, 1 notice was returned in favor and 0 notices were returned in opposition.

David Simpson, Chief Inspector, stated that the reason for the request is because there is a small median that extends from the sign and they don’t desire to place any buffers or utilize any parking spaces.

Lydell Toye, representative, stated they cannot put any signs on the Zaramora side because HEB has maxed out that sign with their gas station and that is the reason they are requesting to put the sign on Military.

**The following citizen(s) appeared to speak:**

Stephanie Martinez, citizen, stated she is in favor. She also stated it would increase their customers and would benefit Ashley Furniture.

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-08-001 closed.

**MOTION**

A motion was made **Mr. Gallagher, in Reference Appeal No. Case A-08-001, variance application for a 32-foot variance from a requirement that a single-tenant free-standing on-premise sign shall remain 150 feet apart from other single-tenant, free-standing, on-premise signs, in order to erect a single-tenant, free-standing, on-premise sign 118 feet from another single-tenant, free-standing, on-premise sign the legal description being Lot 16, NCB 8607, the address being 7010 South Zarzamora, zoning being “C-3” General Commercial District.** I move that the Board of Adjustment grant the applicant’s request regarding Appeal No. **A-08-001** application for a sign variance because we find the variance is necessary because strict enforcement of this article prohibits any reasonable opportunity to provide adequate sign on the site, considering the unique features of the site **that being a nonconforming HEB Plus sign** such as its dimensions, landscaping, or topography. Granting

the variance does not provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated **in that the signs one nonconforming already exists and it appears to be a need for this one.** Granting the variance will not have a substantially adverse impact upon neighboring properties **in that by just looking at the photographs of the area we can see that there are plenty of signs in existence already.** Granting the variance will not substantially conflict with the stated purposes of this article. A denial of the variance would probably cause a cessation of legitimate, longstanding active commercial use **in that we have heard testimony today that approximately 50% less sales are being made at this store due to the lack of this sign considering the information provided the evidence provided today to us it is recommended that we approve this variance.** The motion was seconded by Ms. Dutmer.

**AYES: Ozuna, Rogers, Cruz, Hardemon, Dutmer, Gallagher, Yarborough**

**NAY: Moffat, Klein, Villyard**

**THE VARIANCE WAS NOT GRANTED.**

#### **CASE NO. A-08-002**

Applicant – Michael Turcotte  
Lot 284, Block 13, NCB 17854  
14206 Sage Trail  
Zoned: “R-4” Residential Single-Family District

The applicant is requesting a 2-foot variance from the requirement that solid screen fences in side and rear yards be no taller than 6 feet, in order to keep an 8-foot tall solid screen fence in the side and rear yard.

David Arciniega, Planner, presented background and staff’s recommendation of approval of a 2-foot variance to allow an 8-foot tall solid screen fence along the rear property line and staff recommends denial of the remainder of the request to allow an 8-foot tall solid screen fence along the side property lines. He indicated that 26 notices were mailed, 1 notice was returned in favor and 0 notices were returned in opposition and no response from Castle Hills Forest Neighborhood Association.

Michael Turcotte, applicant, stated he is requesting this variance because his home has been broken into several and he feels the fence would protect his residence.

#### **No citizens 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-08-002 closed.

## MOTION

A motion was made by **Mr. Ozuna** regarding Appeal No. **A-08-002**, variance application for **Michael Turcotte**, Subject Property Description **Lot 284, Block 13, NCB 17854**, located at **14206 Sage Trail**, the applicant again is **Michael Turcotte**. I move that the Board of Adjustment grant the applicants request regarding Appeal No. **A-08-002**, 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 such variance will not be contrary to the public interest in that **there are similar structures of 8-foot fences in the neighborhood and this particular fence is within the continuity of the neighborhood**. Due to special conditions, literally enforcement of the ordinance would result in unnecessary hardship in that **the applicant has brought testimony to us today that he has been broken into a number of times and that an 8-foot fence would provide some kind of obstacle to the burglaries that have occurred before**. So that the spirit of the ordinance is observed and substantial justice is done in that **the 8-foot fence would provide security to the applicant without causing any additional barriers**. 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 application is merely for an 8-foot fence variance and is not a zoning or a change in the existing use of the property**. Such variance will not substantially or permanently injure the district in which the variance is sought in that **we have been shown evidence to us today that 8-foot fences are within the norm for the neighborhood**. Such variance will not alter the essential character of the district in which the variance is sought in that **the same reason previously responded in that there are fencity of these 8-foot fences in the neighborhood**. Such variance will be in harmony with the spirit and purpose of this chapter in that **the 2-foot variance being requested today is not out of character with the neighborhood uses**. The plight of the property owner for which the variance is sought is due to unique circumstances existing on the property and not personal in nature or self-created, and are not merely financial, and are not due to or the result of the general conditions in the district in which the property is located in that **the variance is sought for reasons that have been previously described and for safety and protection of the applicants property**. The variance will not substantially weaken the general purposes of this chapter of the regulations herein established for the specified district in that **this variance is for this particular property and does not apply to the neighbor or adjoining properties**. The variance will not adversely affect the public health, safety or welfare of the public in that **we have been given evidence that the fence is of fireproof nature and would provide security for the applicant**. The motion seconded by Ms. Dutmer.

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

**NAY: Moffat**

**THE VARIANCE WAS GRANTED.**



CASE NO. A-08-003 has been postponed as per the applicant's request.

**CASE NO. A-08-004**

Applicant – Richard Specia  
Lot 26, 27, and 28, Block 4, NCB 6728  
254 East Rosewood Avenue  
Zoned: "MF-33 H" Historic Multi-Family District

The applicant is requesting an appeal of the Director of Planning Community Development Department's decision to concur with the Historic and Design Review Commission's recommendation that wood windows be used on the new construction.

David Arciniega, Planner, presented background and staff recommends that the Board of Adjustment uphold the Director's decision of this request. He indicated that 30 notices were mailed, 2 notices were returned in favor and 1 notice was returned in opposition and no response from Monte Vista Neighborhood Association.

Cherise Bell, Senior Planner, stated that Historic Design & Review Board approved the wood frame windows.

Richard Specia, applicant, stated he is request for the Board of Adjustment to appeal the Director of Planning Community Development Department's decision to concur with the Historic and Design Review Commission's decision.

At 2:58 pm, the Board of Adjustment went into Executive Session.

The Board of Adjustment reconvened at 3:15 pm.

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-08-004 closed.

**MOTION**

A motion was made by Mr. Klein, in Re. Case No. A-08-004, the applicant is **Richard Specia**, the owner is **David Leibold**, address is **254 East Rosewood Avenue**, it is zoned "**MF-33 H**" **Historic Multi-Family District**, the existing use is a residence, it is located in **Monte Vista Neighborhood Association**. This motion is in favor of the applicant. I move that we grant the applicants request for the use of metal windows in lieu of wood windows for the proposed accessory structure/garage/apartment located at 254 Rosewood and part of the findings that support this motion involve the location of this proposed structure which is located in fact on an alley. It is dedicated as East Hollywood Avenue. It is used as a rear alley to access multi-family projects along both streets. This is an accessory structure and

it is not the primary structure. By testimony before the Board today we have heard that the HRDC has approved the use of metal windows on a property across the alley. We have heard testing that this was done approximately two months ago with the approval of HDRC and to my knowledge this board has on at least on one occasion overturned the directors ruling requiring the use of wood windows in lieu of vinyl or metal windows. The motion was seconded by Mr. Gallagher.

**AYES:** Klein, Ozuna, Gallagher, Cruz, Yarborough, Hardemon  
**NAY:** Moffat, Rogers, Villyard  
**ABSTAIN:** Dutmer

**MOTION FAILED.**

**Sign Master Plan No. 08-001**

David Simpson, Chief Sign Inspector, brief Board Members on Sign Master Plan for Alamo Commons, located at South Zarzamora Street and IH-35 South.

Sign Master Plan No. 08-001 was voted on and approved with all members voted in affirmative.

**Sign Master Plan No. 08-002**

David Simpson, Chief Sign Inspector, brief Board Members on Sign Master Plan for Roosevelt Marketplace, located at Southeast Military Drive and Roosevelt Drive.

Sign Master Plan No. 08-002 was voted on and approved with all members voted in affirmative.

**Approval of the Minutes**

Mr. Gallagher moved to approve the minutes of August 7, 2006 and was seconded by Mr. Yarborough and all members voted in the affirmative. Ms. Moffat and Ms. Dutmer abstained from these minutes.

Mr. Gallagher moved to approve the minutes of October 15, 2007 and was seconded by Mr. Yarborough and all members voted in the affirmative.

**Staff Report**

Chris Looney, Planning Manager, stated David Arcinega, Planner, provided all the Board members a copy of the quarterly denied cases.



