

**BOARD OF ADJUSTMENT  
OFFICIAL MINUTES  
November 3, 2008**

Members Present:

Michael Gallagher  
Paul Klein  
Gene Camargo  
Liz Victor  
Edward Hardemon  
Helen Dutmer  
Mary Rogers  
Andrew Ozuna  
Mike Villyard  
Mimi Moffat  
Rollette Schreckenghost

Staff:

Fernando De Leon, P.E. Assistant Director  
Rudy Niño, Senior Planner  
Jacob Floyd, Planner  
Paul Wendland, City Attorney  
Jacob Floyd, Planner  
Michael Farber, Planner  
Michael Taylor, Senior Planner

**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. Villyard made a motion to move Case No. A-08-111 to the end of the agenda. Ms. Rogers seconded it and all members voted in the affirmative.

**CASE NO. A-08-081**

Applicant – Charles Lovett  
Lot 27, Block 36, NCB 17624  
6454 Randolph Boulevard  
Zoned: "C-3 NA IH-1" General Commercial, Nonalcoholic Sales Northeast Gateway Corridor District

The applicant is requesting for 1) a 14-foot variance from the requirement that a 20-foot side setback be maintained in the IH-1 Northeast Corridor District, in order to keep an existing building 6 feet from the south side property line and 2) a thirty eight percent (38%) variance from the requirement that a minimum fifty percent (50%) of the front façade be window/public entry façade in order to keep an existing building with twelve percent (12%) of the front façade as window/public entry façade.

Jacob Floyd, Planner, presented background and staff's recommendation of approval of both variances. He indicated 19 notices were mailed, 8 were returned in favor and 3 were returned in

opposition, 4 were returned with no response and no official response from Randolph Hills Civic Club.

Michael Taylor, Senior Planner, briefed board members on the Corridor District. He stated the applicant submitted a foundation only permit and it was reviewed by staff which caused staff to approve it in error.

Charles Lovett, applicant, stated the reason for this request is because the building is seventy percent complete. He also stated his contractor left when he found out no permits were pulled. He further stated the lot width makes it impossible to comply with corridor district's side setback requirement and that 39 neighbors supported the aesthetic and building design. It cannot be seen by IH 35, a large portion of Randolph Boulevard is not in the overlay, it is a very aesthetically pleasing building, and trees are being reserved. He stated it is a much needed daycare, run by a minority single mother with a proven track record, and among the city's highest rated daycare. The subject property is located in a corridor district which he is not requesting a variance to any of the requirements of the underlying zoning designation. This project will enhance the character by having a beautiful stone building, lush landscaping, preservation of existing trees, and implementation of ecologically friendly means for recycling water and irrigating landscaping. This variance is promoting infill development, preserving native trees, use of ecologically friendly septic system, recycling water for landscape irrigation, establishment of a vital service of the community, and architectural treatment for superior to existing neighboring metal buildings. This variance will provide spacious parking to facilitate the safety of the disabled children and parents.

**The following citizens appeared to speak:**

Chris Hernandez, citizen, spoke in favor.

Numerous citizens stood up to show their support of this request.

Kimberly Davison, citizen, spoke in favor.

Jessica Davison, citizen, spoke in favor.

June Steinbring, citizen, spoke in favor.

Habib Erkan, citizen, spoke in favor.

Dulce Castillo, citizen, spoke in favor.

Sharon Armentrout, 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-08-081 closed.

**MOTION**

A motion was made by **Mr. Klein**. Case No. **A-08-081**, the applicant is **Charles Lovett**, the owner is **Charles Lovett**, the request is for a **14-foot variance requirement that a 20-foot side setback be maintained in the IH-1 Northeast Gateway Corridor District, in order to keep an existing building 6 feet from the south side property line** and variance number two request for a **thirty eight percent variance from the requirement that a minimum fifty percent of the front façade be window/public entry façade in order to keep an existing building with twelve percent of the front façade as window/public entry façade**, the legal description is **Lot 27, Block 36, NCB 17624, commonly known as address 6454 Randolph Boulevard**, the zoning is **"C-3 NA IH-1" General Commercial, Nonalcoholic Sales Northeast Gateway Corridor District, the present use is a commercial building under construction**. I move that the Board of Adjustment grant the applicants request regarding this appeal, 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 **it will provide a needed daycare center in the area as evidence by participation at today's hearing from interested parties**. Due to the special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **this a hundred foot wide lot imposing 20-foot side setbacks on each side would be a hardship in this particular case and also to the lot depth**. So that the spirit of the ordinance is observed and substantial justice is done in that **this particular gateway ordinance was enacted in reference to properties that are predominantly visible from IH-35. This is not the case with the subject and it is hard to see from 35**. Such variance will not authorize the operation of a use others than those uses specifically authorized for the districts in which the property for which the variance is sought is located in that **the zoning is appropriate, the zoning is "C-3 NA IH-1"**. The **"C-3 NA"** is appropriate for either office use or as we have heard today daycare use. Such will not substantially or permanently injure the district in which that variance is sought in that of the notices mailed the predominant responses were in favor by neighboring property owners. Such variance will not alter the essential character of the districts in which the variance is sought in that **an attractive building will be placed on the sight and it will fulfill the functions and design as a licensed daycare center**. Such variance will be in harmony with the spirit and purpose of this chapter in that **both the staff recommendation as well as that from the Neighborhood & Urban Division were in favor of these variance requests and in this motion maker's opinion the testimony that we have heard today supports those recommendations**. 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 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 **gateway corridor overlay requirements imposed on a lot of this nature are entirely in this opinion overly difficult to achieve on a hundred foot wide lot and in this particular proximity to Interstate 35**. The variance will not substantially weaken the general purposes of this chapter of the regulations herein established for the specified district in that **this will facilitate infill development of a currently vacant lot and provide a needed service in the area**. The variance will adversely affect the public health, safety or welfare of the

public in that all permits which are currently lacking will be applied for and this project will receive probably extreme city scrutiny with respect to permit issues. The motion seconded by Ms. Rogers.

**AYES:** Klein, Rogers, Villyard, Ozuna, Victor, Schreckenghost, Camargo, Moffat, Gallagher, Hardemon, Dutmer

**NAY:** None

**THE VARIANCE WAS GRANTED.**

**CASE NO. A-08-099**

Applicant – Vincent Zapata  
Lot 18, Block 1, NCB 14103  
2811 Deer Ledge  
Zoned: "R-5" Residential Single-Family District

The applicant is requesting for a 2-foot variance from the requirement that side yard fences not exceed 6 feet in height, in order to keep an existing side yard fence at a height of 8 feet along the southwest side property line.

Jacob Floyd, Planner, presented background and staff's recommendation of approval of this variance. He indicated that there were 16 notices mailed, 3 were returned in favor and 1 was returned in opposition and no response from Vance Jackson Neighborhood Association.

Monica Zapata, applicant, stated the reason for this request is because she also needed privacy from her neighbors. She also stated they need the additional 2 feet due to the negative slope. She further stated she had deer jumping the fence to get into her yard which meant she couldn't let her dogs out. She also stated the fence does not obstruct any views.

**The following citizens appeared to speak:**

Christina Falkiewicz, citizen, spoke in favor.

Betty Bowman, 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-08-099 closed.

**MOTION**

A motion was made by **Mr. Ozuna**. Re. Appeal No **A-08-099**, variance application for **2811 Deer Ledge**, subject property description **Lot 18, Block 1, NCB 14103**, located again at **2811 Deer Ledge**, the applicant is **Vincent Zapata**, the request is for a **2-foot variance from the requirement that side yard fences not exceed 6 feet in height, in order to keep an existing side yard fence at a height of 8 feet along the southwest side property line**. I move that the

Board of Adjustment grant the applicants request regarding Appeal No A-08-099, 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 **we have seen testimony that there is three neighbors that are in favor, one oppose, and that the applicant is citing topography differences as a requirement.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the applicant is showing that there is a topography difference between the two lots which require some screening from neighbors.** So that the spirit of the ordinance is observed and substantial justice is done in that **again the applicant is stating that there is a difference in topography which is a requiring basically the screening if that is what it is coming down to.** Such variance will not authorize the operation of a use other than those uses specifically authorized for the districts in which the property for which the variance is sought is located in that **the existing "R-5" Residential Single-Family District is to remain and there is no land use changes proposed.** Such variance will not substantially or permanently injure the district in which that variance is sought in that **again the "R-5" Single-Family District zoning is to remain.** Such variance will not alter the essential character of the districts in which the variance is sought in that **the applicant has provided some testimony that there are some other fences higher than the 6 feet within the neighborhood. Although I would state that it appears that there are restricted covenants and deed restrictions limiting the fence to 6 feet uniformity which is obviously out of quilter with what the applicant is proposing.** Such variance will be in harmony with the spirit and purpose of this chapter in that **again we have seen some evidence that there are some fences that exceed 6 feet in height in the neighborhood.** 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 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 unique circumstances is a topographical difference between the two properties in which the applicant is trying to screen from visibility from the neighbors stoop.** The variance will not substantially weaken the general purposes of this chapter of the regulations herein established for the specified district in that **again no changes to the land use is recommended.** The variance will not adversely affect the public health, safety or welfare of the public in that **any proposed construction will be built according to city plans.** The motion seconded by Ms. Dutmer.

**AYES: Dutmer, Gallagher**

**NAY: Ozuna, Camargo, Shreckenghost, Rogers, Moffat, Villyard, Hardemon, Klein, Victor**

**THE VARIANCE WAS NOT GRANTED.**

**Board members took a 10 minute recess.**

**Ms. Rogers and Ms. Schreckenghost recused themselves from Case No. A-08-101. They both departed from the Board Room at 3:08 p.m.**

**CASE NO. A-08-101**

Applicant – San Antonio Conservation Society

The Southwest Irregular 195 feet of Lot 2 and Pt of A-1, NCB 894

107 King William Street

Zoned: "H HE O-2 S RIO-4" Historic Exceptional Office Historic River Improvement Overlay District-4 with a Specific Use Permit for a Museum

The applicant is requesting: 1) an 8-foot variance from the requirement that a minimum 20-foot side setback be maintained in "O-2" zoning districts when abutting residential uses or zoning districts, in order to erect a structure 12 feet from the side property line and 2) a 4 space parking adjustment from the parking standard that office uses of 8,675 square feet of gross floor area have 29 spaces, in order to allow 25 parking spaces.

Michael Farber, Planner, presented background and staff's recommendation of approval of both variances. He indicated that there were 27 notices mailed, none were returned in favor and 1 was returned in opposition and 1 was returned with no response and no response from King William Neighborhood Association.

Bob Bradley, representative, stated the facility is not a museum per say it is more of an archival storage. He also stated the applicant wanted to have a climate control area which generated an interest to add an addition to the stone barn which is a conditioned space and used for office building. The applicant wants to combine this building with the two-story addition. He further stated a larger portion of this footprint is used for resources materials instead of office use. The case on the reduction of the side setback is based upon on the existence of the barn, the whole site is historic, and preserve all trees on the site and create the best vista and composition with the existing building and the views from the King William Park.

**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-08-101 closed.

**MOTION**

A motion was made by **Mr. Villyard**. Re Appeal No A-08-101, variance for an **8-foot variance from the requirement that a minimum 20-foot side setback be maintained in "O-2" zoning districts when abutting residential uses or zoning districts, in order to erect a structure 12 feet from the side property line and a 4 space parking adjustment from the parking standard that office uses of 8,675 square feet of gross floor area have 29 spaces, in order to allow 25 parking spaces.** I move that the Board of Adjustment grant the applicants request for this application of subject property described as **the southwest irregular 195 feet of Lot 2 and**

**Pt of A-1, NCB 894, also known as 107 King William Street,** 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 **this is a historic district, it has passed Historic Design Review Board, and will certainly compliment the area.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **although it will have some offices in this new building there is a very low employee and visitor parking rate so this should satisfy that requirement.** So that the spirit of the ordinance is observed and substantial justice is done in that **this is a significant historical building and they have been very, very careful in conserving the trees and maintain the landscape as well as the character of the neighborhood itself.** Such variance will not authorize the operation of a use other than those uses specifically authorized for the districts in which the property for which the variance is sought is located in that **this is the main office of the San Antonio Conservation Society.** Such variance will not substantially or permanently injure the district in which that variance is sought in that **as we have said before this has been reviewed by the Historic Design & Review Board and is actually the crown jewel of the San Antonio Conservation Society.** Such variance will not alter the essential character of the districts in which the variance is sought in that **it is an aged residential district and this is just a continuation of the uses of buildings in that area.** Such variance will be in harmony with the spirit and purpose of this chapter in that **it will have satisfactory parking and continue the nature and character of the area and it will not substantially weaken the general purposes of this chapter of the regulations herein for the same reasons.** The variance will not adversely affect the public health, safety or welfare of the public in that **it has been properly planned and executed.** The motion seconded by Ms. Moffat.

**AYES: Villyard, Moffat, Camargo, Dutmer, Ozuna, Hardemon, Klein, Victor, Gallagher**  
**NAY: None**

**THE VARIANCE WAS GRANTED.**

**Ms. Rogers and Ms. Schreckenghost returned to the Board Room at 3:30 p.m.**

**CASE NO. A-08-105**

Applicant – James L. and Judy Mastin  
Lot 3, Block 15, NCB 18820  
2711 Woodline Street  
Zoned: “R-6” Single-Family District

The applicant is requesting 1) a 1-foot variance from the requirement that a minimum 10-foot front setback be maintained in “R-6” zoning districts, in order to keep a carport 9 feet from the front property line and 2) an 11-foot variance from the requirement that a 20-foot front setback be maintained as per platted front setback found in Volume 1058, Page 445 of the Bexar County Land Records, in order to keep the same carport 9 feet from the front property line.

Michael Farber, Planner, presented background and staff's recommendation of denial of this variance. He indicated that there were 34 notices were mailed, none were returned in favor and none were returned in opposition and no response from Timber Ridge Neighborhood Association.

Judy Mastin, applicant, stated the reason for this variance is because she wanted to shelter her vehicles. She stated she hired a contractor and asked him to stop the construction and get a permit. When she did not hear from him for two months, she decided to get the permits herself. She found out about the variance when she decided to go get the permits herself. She further stated she had measured from the front of the sidewalk and the city staff told her she needed to measure it from the back of the sidewalk.

**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-08-105 closed.

**MOTION**

A motion was made by **Ms. Victor**. Re Appeal No **A-08-105**, subject property description **Lot 3, Block 15, NCB 18820**, located at **2711 Woodline Street**. I move that the Board of Adjustment grant the applicants request regarding Appeal No. **A-08-105**, 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 **the structure does not create any type of safety issues for the neighborhood**. Due to the special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the structure is almost completed and the way that the driveway dips down it makes it very difficult to cover the cars without the structure being constructed the way that it is**. So that the spirit of the ordinance is observed and substantial justice is done in that **we grant the variance so that the applicant is able to continue building and finishing the carport**. Such variance will not authorize the operation of a use other than those uses specifically authorized for the districts in which the property for which the variance is sought is located in that **this variance applies only to this address and not to anybody else in the neighborhood**. Such variance will not substantially or permanently injure the district in which that variance is sought in that **the character of the structure is in keeping with the look of the neighborhood and residence that it is attached to**. Such variance will not alter the essential character of the districts in which the variance is sought in that **it mimics the structure of the home which is harmony with the rest of the neighborhood**. Such variance will be in harmony with the spirit and purpose of this chapter in that **an attractive structure that is suiting the purpose of the applicant will not be out of harmony with the spirit and purpose of this chapter**. 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 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 **there is a dip in the driveway and the shallowness of the driveway means that the structure needs to come out further than the code says.** The variance will not adversely affect the public health, safety or welfare of the public in that **there is no blockage, it is an open structure, it will still continue to have airflow, and it does not cause any blind spots or any type of safety issues for the neighborhood.** The motion seconded by **Mr. Hardemon.**

**Ms. Dutmer made a motion to continue this case to the next regularly scheduled meeting on November 17, 2008 in order to get more information on this case. Ms. Schreckenghost seconded and all members voted in the affirmative.**

#### **CASE NO. A-08-107**

Applicant – Craig McMahan  
Lot 9, the west 25 feet of Lot 10, and the east 5 feet of Lot 8, Block 2, NCB 2953  
210 West Huisache Avenue  
Zoned: “H R-4” Residential Single-Family Historic District

The applicant is requesting a 6-foot variance from the requirement that a minimum 14-foot rear setback from the property line be maintained in “R-4” zoning districts when abutting a 12-foot wide alleyway, in order to erect a structure 8-foot from the rear property line.

Jacob Floyd, Planner, presented background and staff’s recommendation of denial of this variance. He indicated that there were 16 notices mailed, none were returned in favor and none were returned in opposition and 1 was returned with no response and no response from Monte Vista Neighborhood Association.

Craig McMahan, applicant, stated the reason for this request is for a new cafeteria and classroom building. They have been trying to salvage and work with an historic structure that sits on two properties. The HDRC and Monte Vista Neighborhood Association have approved the design concept that is being presented today. He also stated they in are for replatting to replat the two pieces of the property to make an L shape building and it is 60 feet away from the building to the south of them. He further stated he is asking for 6 feet from the 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-08-107 closed.

#### **MOTION**

A motion was made by **Ms. Rogers.** In Re Appeal Case **A-08-107**, variance application for a **6-foot variance from the requirement that a minimum 14-foot rear setback from the property line be maintained in “R-4” zoning districts abutting a 12-foot wide alleyway, in order to erect a structure 8 feet from the rear property line,** subject property description being Lot 9, the west 25 feet of Lot 10, and the east 5 feet of Lot 8, Block 2, NCB 2953,

located at **210 West Huisache Avenue**, the applicant being **St. Anthony Catholic School**. I move that the Board of Adjustment grant the applicants request regarding Appeal No **A-08-107**, 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 **it will not adversely affect the overall area but actually improve the school and to the value of the surrounding area**. Due to the special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the school is designated historical and the design is HDRC approved**. So that the spirit of the ordinance is observed and substantial justice is done in that **the applicant will be required to comply with any and all necessary permitting**. Such variance will not authorize the operation of a use other than those uses specifically authorized for the districts in which the property for which the variance is sought is located in that **the structure will be used for the school purposes**. Such variance will not substantially or permanently injure the district in which that variance is sought in that **it will not have a negative impact on the neighborhood or the surrounding area**. Such variance will not alter the essential character of the districts in which the variance is sought in that **the proposed structure will be in keeping with the rest of the school and does not conflict with other structures in the neighborhood**. Such variance will be in harmony with the spirit and purpose of this chapter in that **the proposed structure will maintain the quality of the surrounding area**. 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 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 **an alley to the rear of the subject property provides for additional separation between the proposed structures and the abutting projects**. The variance will not substantially weaken the general purposes of this chapter of the regulations herein established for the specified district in that **the proposed variance will not weaken the overall zoning plan of the area**. The variance will not adversely affect the public health, safety or welfare of the public in that **the proposed structure will not in any way, create any adverse affect to the public**. The motion seconded by **Ms. Dutmer**.

**AYES: Rogers, Dutmer, Camargo, Moffat, Ozuna, Schreckenghost, Villyard, Victor, Klein, Hardemon, Gallagher**

**NAY: None**

**THE VARIANCE WAS GRANTED.**

**CASE NO. A-08-109**

Applicant – Patrick Tijerina  
Lot 36, Block 22, NCB 10487  
2603 Vance Jackson  
Zoned: “C-2” Commercial District

The applicant is requesting **1)** a 2-foot variance from the requirement that side and rear yard fences not exceed 6 feet in height, in order to keep an existing side and rear yard fence at a height of 8 feet, and **2)** a complete variance from the requirement that a minimum 30-foot rear setback be maintained in C-2 zoning districts when abutting a residential use or zoning district, in order to keep an existing structure on the rear property line.

Jacob Floyd, Planner, presented background and staff's recommendation of denial of both variances. He indicated that there were 26 notices mailed, none were returned in favor and 1 was returned in opposition and no response from Dellview Area Neighborhood Association.

Patrick Tijerina, applicant, stated the reason for this request is because he did the construction thinking he because it was only replacing 25% and he thought he did not need a permit. He also stated he spoke to city staff and had an inspector come out to look at it. He misunderstand that the back part of the fence was the whole 25 %. He wanted to have a sound barrier for the neighbors and to bring the fence that once existed that separated the bar and grill from family oriented community. He further stated it has been an established building for a long time.

**The following citizens appeared to speak:**

Maggie Jimenez, citizen, spoke in opposition.

Louis Jimenez, 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-08-109 closed.

**MOTION**

**THE VARIANCE WAS NOT GRANTED DUE TO LACK OF MOTION.**

**CASE NO. A-08-110**

Applicant – Juan P. Chapa

The northeast irregular 87.89 feet of Lot 1 and all of Lots 2 and 3, NCB 7780

4606 South Flores

Zoned: "C-3 NA" General Commercial Nonalcoholic Sales District

The applicant is requesting a 25-foot, 2-inch variance from the requirement that a minimum 30-foot rear setback be maintained in "C-3" zoning districts when abutting residential uses or zoning districts, in order to keep an existing structure 4 feet, 8 inches from the rear property line.

Jacob Floyd, Planner, presented background and staff's recommendation of denial of this variance. He indicated that there were 23 notices mailed, 1 was returned in favor and none were returned in opposition.

Hortencia Chapa, applicant, stated the reason for this request is to keep the structure as it is. She also stated this was an age existing carport and all she did was replace the old material with new material. The existing carport was deteriorating and he was concerned for the vehicles that pass and park near his residence. The contractor she hired did not obtain the proper permits and she did not think she needed a permit because it was an old existing building that had been there for many years. She further stated she has used her savings on this carport and it would be a financial hardship if she cannot keep her carport.

**The following citizens appeared to speak:**

Randy Gilliam, citizen, spoke in favor.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-08-110 closed.

**MOTION**

A motion was made by **Mr. Ozuna**. Re Appeal No **A-08-110**, variance application for **Juan P. Chapa**, the address located at **4606 South Flores Street**, subject property description **Lot 1 and all of Lots 2 and 3, NCB 7780**, located at **4606 South Flores Street**, the applicant **Juan P. Chapa**, the applicant is requesting a **25-foot, 2-inch variance from the requirement that a minimum 30-foot rear setback be maintained in "C-3" zoning districts when abutting residential uses or zoning districts, in order to keep an existing structure 4 feet, 8 inches from the rear property line**. I move that the Board of Adjustment grant the applicants request regarding Appeal No **A-08-110**, 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 **a structure has existed in that location for a number of years and the applicant merely rebuilt this structure and will be built according to plans and permits that the applicant will pull on the project**. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **if the structure was to be removed, it would be a severe economic hardship to the applicants**. So that the spirit of the ordinance is observed and substantial justice is done in that **the same, the structure would have to be removed or destroyed which would provide an economic hardship. Although that it is not one of our criteria, I am including that in today**. Such variance will not authorize the operation of a use other than those uses specifically authorized for the districts in which the property for which the variance is sought is located in that **all existing land use zoning is to remain; the "C-3 NA" General Commercial Nonalcoholic District is to remain**. Such variance will not substantially or permanently injure the district in which that variance is sought in that **again the existing zoning is to remain and we saw no opposition to the requested variance**. Such variance will not alter the essential character of the districts in which the variance is sought in that **the predominant use of the area is these building type structures which is common to the area**. Such variance will be in harmony with the spirit and purpose of this chapter in that **again the existing zoning is to remain and the building that was built merely replaced an existing**

**structure on the property.** 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 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 **again the situation was that a tree fell on the previous building which required a rebuilt to allow the Chapas to continue their business operations.** The variance will not substantially weaken the general purposes of this chapter of the regulations herein established for the specified district in that **again the existing zoning is to remain.** The variance will not adversely affect the public health, safety or welfare of the public in that **the applicant will build according to all the building requirements of the City of San Antonio.** The motion seconded by **Ms. Dutmer.**

**AYES: Ozuna, Dutmer, Schreckenghost, Rogers, Moffat, Victor, Klein, Hardemon, Gallagher**

**NAY: Camargo, Villyard**

**THE VARIANCE WAS GRANTED.**

**Board members took a 10 minute recess.**

**CASE NO. A-08-113**

Applicant – Joe Alvarez  
Lot 7, Block 15, NCB 17642  
10010 Rogers Run Road  
Zoned: "C-2" Commercial District

The applicant is requesting **1)** 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 chain link fence in the front yard; **2)** a 2-foot variance from the requirement that side yard fences not exceed 6 feet in height in order to erect an 8-foot tall chain link fence in the side yards; **3)** a 2-foot variance from the requirement that rear yard fences not exceed 6 feet in height in order to erect an 8-foot tall wrought iron fence in the rear yard; and **4)** a complete variance from the requirement that fences shall not exceed one hundred (100) horizontal feet in length without meeting the development standards as outline in Chapter 35-514 (c).

Jacob Floyd, Planner, presented background and staff's recommendation of approval of variance #4 and denial of variances #1, #2, & #3. He indicated that there were 9 notices mailed, none were returned in favor and none were returned in opposition.

Laura Gass, applicant, stated the reason for this request is because they are developing on a 25-acre property and only 10-acres will have construction which means that the fence from Rogers Run is about 350 feet away from Rogers Run and about 500 + feet away from Rogers Road. She also stated about 15 of the acres will not be development and will be remained in their natural state. The fence will not be visible from the either road because they had screened this property so that facility would not be visible to the public view. She further stated the Design and Review

has already approved for them to have a black vinyl coded chain link fence with the anticipation that there is a jogging trail or a greenbelt in the future.

### **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-08-113 closed.

### **MOTION**

A motion was made by **Mr. Camargo**. I would like to move that in Case No **A-08-113**, the request of the applicant being **Joe Alvarez**, on **Lot 7, Block 15, NCB 17642**, on property that is zoned **"C-2" Commercial**, that the board grant **(1) 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 chain link fence in the front yard, (2) a 2-foot variance from the requirement that side yard fences not exceed 6 feet in height in order to erect an 8-foot tall chain link fence in the side yards, (3) a 2-foot variance from the requirement that rear yard fences not exceed 6 feet in height in order to erect an 8-foot tall wrought iron fence in the rear yard, and (4) a complete variance from the requirement that fences shall not exceed one hundred (100) horizontal feet in length without meeting the development standards as outline in Chapter 35-514 (c) as per the site plan that was submitted by the applicants representative.** Specifically we find that such variance will not be contrary to the public interest in that **of the notices that were mailed to the adjacent and abutting property owners none were returned in opposition and secondly again the location of the requested fencing that has been outlined to us will almost be invisible, I guess you might say from the public right of ways of Rogers Run and Rogers Road.** Due to the special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the size of this overall development, which is 25 plus acres, the special condition in my opinion is the fact that the requested variance or fencing is not what we normally consider on the property line but located a large distance from the public right of ways and that this is a condition that is normally not found in other developments that come before this board.** So that the spirit of the ordinance is observed and substantial justice is done in that **it is felt that the intent of the height limitations for fencing is to perhaps not detract from any other development in an area and again just by the location shown on the site plan this fencing that is proposed will not contrary to that.** Such variance will not authorize the operation of a use other than those uses specifically authorized for the districts in which the property for which the variance is sought is located in that **in the zoning classification the proposed use of this land is in keeping with the "C-2" commercial zoning that exists.** The variance will not adversely affect or permanently injure the district in which that variance is sought in that **the proposed fencing type and location will more than likely not be visible from the public right of ways nor offensive to adjacent property owners.** Such variance will not alter the essential character of the districts in which the variance is sought in that **basically for the same reason that this isn't a visible fence that is being proposed.** Such variance will be in harmony with the spirit and purpose of this chapter in that **these development regulations give the board of adjustment and state law the authority to vary the specific requirements of the ordinance which appears justifiable and that is the case in my opinion.** 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 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 **again by the mere location of the proposed fencing and type specifically the one to the south that abutts a fairly wide drainage area where no development will occur, in my opinion justifies the granting of this variance.** The variance will not substantially weaken the general purposes of this chapter of the regulations herein established for the specified district in that **the proposed fencing, the height has been indicated 6 feet and 8 feet, the variance requests will allow a certain amount of security to the development that is proposed on the property.** The variance will not adversely affect the public health, safety or welfare of the public in that **permits will be taken to insure that the construction and location of the fences requested in this variance are as per what was submitted by applicant's representative.** The motion seconded by Mr. Villyard.

**AYES: Camargo, Villyard, Moffat, Rogers, Schreckenghost, Ozuna, Hardemon, Klein, Victor, Dutmer, Gallagher**

**NAY: None**

**THE VARIANCE WAS GRANTED.**

**Ms. Moffat departed at 5:27 p.m.**

**CASE NO. A-09-001**

Applicant – North Central Properties, Ltd.  
Lot 22, Block 1, NCB 17756  
16119 Classen Road  
Zoned: "O-1" Office District

The applicant is requesting a 42-foot variance from the requirement that a maximum 35-foot front setback be maintained in O-1 zoning districts, in order to keep a building seventy-seven (77) feet from the front property line.

Jacob Floyd, Planner, presented background and staff's recommendation of approval of this variance. He indicated that there were 39 notices mailed, none were returned in favor and none were returned in opposition and no response from Knollcreek Home Owners Association.

Gary Ted Ballard, applicant, stated the he did get a shell permit and he did not need a permit for the foundation because the structure was pre existing and it had burnt down in a fire. He also stated that it was recommended by the Zoning Commission to get an O-1. They architect inadvertently did not realize that there was a maximum 35-foot setback and they would be in violation of the tree ordinance because there are three heritage Craig myrtle trees that are in the front of the building. He further stated the clinic would require a fix number of parking spaces and good handicap access. He could legally comply with O-1 zoning but because he had a foundation that was already there, it made no sense with the existing parking, the limitation of the sight, and the harmony of the existing childcare center to the side of them, if he had

demolished the foundation and built a new foundation it would not have been practical to work with the zoning ordinance. Plus he would have lost the two Craig myrtles. In order to comply with the zoning ordinance he would have to build an 8-foot by 42-foot appendage that would have no purpose. It would just be a porch to no where.

### **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-09-001 closed.

### **MOTION**

A motion was made by **Ms. Rogers**. Re Appeal No **A-09-001**, variance application for a **42-variance from the requirement that a maximum 35-foot front setback be maintained in O-1 zoning districts, in order to keep a building seventy-seven (77) feet from the front property line**, subject property description is **Lot 22, Block 1, NCB 17756**, located at **16119 Classen Road**, the applicant being **North Central Properties, Ltd.** I move that the Board of Adjustment grant the applicants request regarding Appeal No **A-09-001**, 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 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 **it will not alter the overall appearance or adversely affect the character of the area**. Due to the special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **what was originally an original foundation would have to be adjusted in another manner and the neighborhood specifically request that this type of building be constructed on the foundation as it existed**. Such variance will not authorize the operation of a use other than those uses specifically authorized for the districts in which the property for which the variance is sought is located in that **the clinic will be in accordance with the zoning for that district**. Such variance will not substantially or permanently injure the district in which that variance is sought in that **the variance will not have a negative impact on the area as a matter of fact it will have a positive impact on the neighboring area**. Such variance will not alter the essential character of the districts in which the variance is sought in that **the clinic will serve the neighborhood and provide a very useful service**. Such variance will be in harmony with the spirit and purpose of this chapter in that **the proposed facility will promote the welfare in the community**. 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 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 **this facility will enhance and improve the overall community**. The variance will not substantially weaken the general purposes of this chapter of the regulations herein established for the specified district in that **the proposed variance will weaken the zoning plan of the area**. The variance will not adversely affect the public health, safety or welfare of the public in that **it will actually serve the community and the welfare of the community**. The motion seconded by **Mr. Hardemon**.

**AYES: Rogers, Hardemon, Ozuna, Schreckenghost, Villyard, Dutmer, Camargo, Victor, Klein, Gallagher**  
**NAY: None**

**THE VARIANCE WAS GRANTED.**

**Board members to a 30 minute recess.**

**CASE NO. A-09-002**

Applicant – Eli A. Torres  
Lot 11, Block 2, NCB 14757  
7418 Green Glen Drive  
Zoned: “R-6 ERZD” Residential Single-Family Edwards Recharge Zone District

The applicant is requesting a Special Exception in order to erect a 6-foot tall ornamental-iron fence in the front yard.

Michael Farber, Planner, presented background and staff’s recommendation of approval of this variance. He indicated that there were 15 notices mailed, 2 were returned in favor and 2 were returned in opposition and no response from Hills and Dales Neighborhood Association.

**Mr. Klein made a motion to move this case to the end of the agenda. Ms. Dutmer seconded it and all members voted in the affirmative.**

**CASE NO. A-09-003**

Applicant – Pape-Dawson Engineers, Inc.  
Lot P-8, Block 58, NCB 15331 (Lot 1, Block 1, NCB 15331 – currently being replatted)  
6400 Block of Texas Highway 151  
Zoned: “I-1 GC-2” General Industrial Highway 151 Gateway Corridor Overlay District

The applicant is requesting a 1) a variance from the Highway 151 Gateway Corridor Overlay District Plan requirement that exterior wall finishes shall be constructed of concrete, brick, stone, glass, or their equivalent, in order to erect a structure that will have a façade of primarily sheet metal material as its exterior wall finish, and 2) a 2-foot variance from the requirement that fences in the side and rear yards not exceed 6 feet in height, in order to erect an 8-foot tall fence.

Michael Farber, Planner, presented background and staff’s recommendation of denial of the 1<sup>st</sup> variance and approval of the 2<sup>nd</sup> variance. He indicated that there were 27 notices mailed, none were returned in favor and 1 was returned in opposition.

Tetsuo Makini, applicant, stated the reason for the 8-foot fence is for security of the building. He also stated he wanted the exterior of the building to be metal.

**MOTION**

**Mr. Camargo made a motion to postpone this case to a further date until all other issues are resolved. Mr. Villyard seconded it and all members voted in the affirmative.**

**CASE NO. A-08-111**

Applicant – Pape-Dawson Engineers, Inc.  
Lot 15, Block 15, NCB 17316  
1935 Blue Crest Lane  
Zoned: “BP” Business Park District

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

Jacob Floyd, Planner, presented background and staff’s recommendation of approval of this variance. He indicated that there were 29 notices mailed, 2 were returned in favor and 1 was returned in opposition and 1 was returned with no response and no official response from Blossom Park Neighborhood Association.

Gary Smith, applicant, stated the reason for this request is only for a parking lot and the intended use is for additional parking for Time Warner employees. He also stated this is for security of service vehicles and employees who leave at night.

**The following citizens appeared to speak:**

Cheryl Shaw, citizen, spoke in opposition.

Chuck Ludaman, citizen, spoke in favor.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-08-111 closed.

**MOTION**

A motion was made by **Mr. Camargo**. I would like to move that in Case No **A-08-111**, the request of **Pape-Dawson Engineers, Inc.**, representing property owner **Starcrest-Paragon Business Center, Ltd.**, grant a variance that is being requested on **Lot 15, Block 15, NCB 17316**, also known as **1935 Blue Crest Lane**, the applicant in this particular case is requesting a **2-foot variance from the requirement that front yard fences not exceed 4 feet in height, in order to erect a 6-foot tall predominantly open fence in the front yard**. The applicants have stated and staff has shown various photographs of the surrounding area which indicates that both across the street and to the north of fencing very similar to that which is being requested has been constructed. Therefore, in my opinion it is not against the public

**interest and that the proposed construction is in keeping with the development that exists on Blue Crest Land. Due to the special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that the hardship in this particular case is that the property in question is to be basically vacant and occupied by employee and company vehicles and that the proposed fencing concerned to be seen as a security measure to protect vandalism of these vehicles in the evening. So that the spirit of the ordinance is observed and substantial justice is in that it has been shown that the property in question is in fact entitled to a 6-foot solid or probably open wrought iron fence on the majority of the property saying except the front setback which is where the variance is being requested and again in keeping with other development on Blue Crest Lane. Such variance will not authorize the operation of a use other than those uses specifically authorized for the districts in which the property for which the variance is sought is located in that the zoning classification that exists on the property, staff has indicated the non-commercial type parking that is proposed is in fact permitted in the business park classification. Such variance will not substantially or permanently injure the district in which that variance is sought in that again that because of the business classification the use being proposed and permitted is permitted in this business park area off of two major thoroughfares, Star Crest and Jones Maltzberger. Such variance will not alter the essential character of the districts in which the variance is sought in that basically that is the same as number five and the proposal is fencing and variance for the fencing will be in keeping with the development of the surrounding area on the business park frontage. Such variance will be in harmony with the spirit and purpose of this chapter in that security is certainly is a major issue and the use such as this which is the storage of employee and company vehicles that need to be protected. 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 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 I don't know that there is any specific unique circumstances other than the fact that the zoning classification that exists on the property allows the use that the applicant is proposing and in constructing such a use of non-commercial parking, it certainly has been shown that the need for 6-foot fencing along the major thoroughfare, not major thoroughfare but the thoroughfare Blue Crest Lane is certainly necessary. The variance will not substantially weaken the general purposes of this chapter of the regulations herein established for the specified district in that the code gives this Board the authority to grant such variances when there is a need shown for deviation from the strict letter of the ordinance. The variance will not adversely affect the public health, safety or welfare of the public in that permitting will be required and will be obtained to ensure that there are no side vision problems or any other violations of any other code with the construction of the requested fence. The motion seconded by Mr. Klein.**

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

**NAY: None**

**THE VARIANCE WAS GRANTED.**



**CASE NO. A-09-002**

Applicant – Eli A. Torres  
Lot 11, Block 2, NCB 14757  
7418 Green Glen Drive  
Zoned: “R-6 ERZD” Residential Single-Family Edwards Recharge Zone District

The applicant is requesting a Special Exception in order to erect a 6-foot tall ornamental-iron fence in the front yard.

Michael Farber, Planner, presented background and staff’s recommendation of approval of this variance. He indicated that there were 15 notices mailed, 2 were returned in favor and 2 were returned in opposition and no response from Hills and Dales Neighborhood Association.

Eli A. Torres, applicant, stated the reason for this request is because the house has been flooded and the stucco wall will help. He also stated there have been numerous burglaries in the neighborhood and he wants to secure his home. He further stated there are other homes with similar type of fences.

**The following citizens appeared to speak:**

Jim Harnish, citizen, stated he is neutral.

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-09-002 closed.

**MOTION**

A motion was made by **Mr. Villyard**. Re Appeal No **A-09-002**, application for a **Special Exception in order to erect a 5-foot 8-inch tall ornamental iron and centerblock fence in the front yard**, the subject property description is **Lot 11, Block 2, NCB 14757**, located at **7418 Green Glen Drive**, the applicant **Mr. Torres**. I move that the Board of Adjustment grant the applicant’s request regarding this appeal 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 35-399.04. 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 **there will be no safety hazards and the applicant has agreed in writing to construct the fence to meet all the limitations and conditions and restrictions set forth in Section 35-399.04 of the Unified Development Code**. The public welfare and convenience will be substantially served in that **it will provide security and upgrade the appearance of the neighborhood**. The neighboring property will not be substantially injured by such proposed use in that **half of the property owners did not object and that was reviewed by the people present here and they felt it was appropriate to construct this fence as requested**. 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 **there a number of other fences of the same type in the area**. The special exception will

weaken the general purpose of the district or the regulations herein established for the specific district in that as I said because there are other similar fences in the area. The motion seconded by Ms. Victor.

**AYES: Villyard, Victor, Ozuna, Shreckenghost, Hardemon, Gallagher**

**NAY: Rogers, Klein, Dutmer, Camargo**

**THE VARIANCE WAS NOT GRANTED.**

**Approval of the Minutes**

**Ms. Schreckenghost** made a motion to approve October 20, 2008 minutes and **Mr. Villyard** seconded it and all members voted in the affirmative.

**Staff Report**

**Rudy Niño, Senior Planner, updated Board members on a previous case on Pow Wow Street. Mr. Wendland mentioned that a state district court judge overturned the decision of the Board of Adjustment members and that judge has now instructed the Board of Adjustment grant the applicant's request. The litigation section is making a decision based on whatever the factors are on appealing on whether they should pursue an appeal.**

There being no further discussion, meeting adjourned at 7:49 p.m.

APPROVED BY: Michael R. Gallagher OR Paul Klein  
Michael Gallagher, Chairman Vice-Chair

DATE: 11-17-08

ATTESTED BY: Christopher J. Looney DATE: 11-17-08  
Christopher J. Looney  
Development Services, Planning Manager