

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
October 1, 2007**

Members Present:

Michael Villyard
Michael Gallagher
Gene Camargo
Helen Dutmer
Ed Hardemon
George L. Alejos
Mary Rogers
Gerald Yarbrough
Paul Klein
Maria D. Cruz

Staff:

Fernando De Leon, Assistant Director
Ted Murphree, Asst. City Attorney
Audrey Zamora, Asst. City Attorney
Chris Looney, Planner Manager
David Arciniega, Planner

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.

David Arciniega, Planner, stated Case No. A-07-099 has been withdrawn as per the applicant's request.

CASE NO. A-07-090PP

Applicant – Olga Johnson
Lot 9, Block 50, NCB 35132
3757 South Foster Road
Zoned: "R-6" Residential Single Family District

The applicant is requesting for a 2-foot variance from the Unified Development Code 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 yards.

David Arciniega, Planner, presented background and staff's recommendation of approval on this case. He indicated 6 notices were mailed, 4 notices were returned in favor and 0 notices were returned in opposition.

Olga Johnson, owner, stated the purpose of this request to keep their 8 foot fence. She stated they erected the fence prior to annexation for more privacy but mostly for safety reasons.

The following citizen(s) appeared to speak:

Earl Cook, stated he is favor. He stated there are other neighbors who have fences that do not meet code requirements however he feels Mrs. Johnson's fence is very well maintain.

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-07-090PP closed.

MOTION

A motion was made by **Mr. Klein, Reference Appeal Case No. A-07-090PP, this is a variance application for a 2 foot variance from the requirement that solid screen fences in side yards be no taller than 6 feet in order to keep an existing 8 foot tall solid screen fence in the side yard, the subject property is described as Lot 9, Block 50, NCB 35132 N, the address is 3757 South Foster Road, and the zoning is "R-6" Residential Single Family District. The applicant is Olga Johnson. I move that the Board of Adjustment grant the applicants request regarding this appeal 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 6 notices were mailed, 4 were returned in favor and there were no oppositions. Due to the special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that this particular property is in fact rural in nature, it is a large lot approximately something over 1 acre in size and is located on South Foster Road. So that the spirit of the ordinance is observed and substantial, justice is done in that this particular fence does affectively help to screen the operation of large vehicles which are legally operating on this particular property. 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 is "R-6" Single-family Residential District and this particular fence is not in conflict with zoning. Such variance will not substantially or permanently injure the district in which that variance is sought in that the variance is specifically for the existing fence located on the existing side yard behind the residence. Such variance will not alter the essential character of the districts in which the variance is sought in that a number of existing fences in the area are higher than might be expected primarily due to the large acreage lot situation in the rural character of the neighborhood. Such variance will be in harmony with the spirit and purpose of this chapter in that the fence does comply with the rural area that has been described previously. 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 applicant did indicate that this property was purchased prior to annexation by the City of San Antonio in 2002. 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 granted for this specific piece of property only. The variance will not adversely affect the public health, safety or welfare of the public in that it will not create a traffic or safety hazard, end of motion. The motion was seconded by Mr. Hardemon.**

AYES: Klein, Hardemon, Cruz, Rogers, Villyard, Gallagher, Yarborough, Camargo, Dutmer, Alejos

NAYS: None

THE VARIANCE WAS GRANTED



CASE NO. A-07-097

Applicant – Herminia Pachecano
Lot 30, the east 12.5 feet of Lot 29 and the west 22.5 feet of Lot 31, Block 38, NCB 1847
1133 Woodlawn Avenue
Zoned: “R-6 NCD-5” Residential Single Family Beacon Hill Neighborhood Conservation District

The applicant is requesting for 1) a 30-foot variance from the Unified Development Code requirement that, within the Beacon Hill Neighborhood Conservation District, carports shall be located a minimum of 5 feet behind the primary residence’s front façade, in order to keep an existing carport that extends 25 feet in front of the primary residence’s front façade, and 2) a 5-foot variance from the requirement that a minimum 5-foot side setback be maintained in “R-6” Zoning districts, in order to keep the same carport on the side property line.

David Arciniega, Planner II, presented background and staff’s recommendation of denial of both variance request. He indicated that there were 24 notices mailed, 1 notice was returned in favor and 0 notices were returned in opposition and no response from Beacon Hill Neighborhood Association.

Gloria Flores, representative, stated the purpose of this request is to maintain the existing carport. She stated they are unable to park in front of their home due to the heavy traffic flow but mainly to make it more accessible for the applicant’s handicap son.

The following citizen(s) appeared to speak:

Herminia Pachecano, owner, stated she would like to request this variance to be granted as this would make it more convenient for her handicap son.

Liz Victor, representative of Beacon Hill Neighborhood Association, stated they would like to request a continuance to meet with the applicant.

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-07-097 closed.

MOTION

A motion was made **Mrs. Rogers** to continue this case until November 19, 2007 and was seconded by **Mrs. Cruz**.

(8 were in favor and 2 opposed)

THE MOTION CARRIED

Board Members took a 15 minute recess.

CASE NO. A-07-098

Applicant – Rakesh & Aditi Vazir
Lots 1, 2, 3, 14, 15, and 16, Block 7, NCB 1440
2203 East Commerce Street
Zoned: "I-1" General Industrial District

The applicant is requesting 1) a 10-foot variance from the Unified Development Code requirement that a minimum 30-foot front setback be maintained in "I-1" zoning districts in order to build a structure 20 feet from the front property line, and 2) a 10-foot variance from the Unified Development Code requirement that a minimum 30-foot side setback be maintained in "I-1" zoning districts when abutting residential uses or residential zoning districts, in order to build the same structure 20 feet from the side property line.

David Arciniega, Planner, presented background and staff's recommendation of denial of request. He indicated that 28 notices were mailed, 0 notices were returned in favor and 0 notices was returned in opposition.

Rakesh Vazir, owner, stated he is requesting this variance in order to provide more parking space for their high occupancy load. He further stated they have also provided access for emergency vehicles.

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-07-098 closed.

MOTION

A motion was made by Mr. Gallagher; regarding Appeal No. A-07-098, the variance application for a 10-foot variance from the minimum 30 front setback required in "I-1" zoning districts in order to build a structure 20 feet from the property line into a 10-foot variance from the minimum 30 foot side setback required in "I-1" zoning districts when abutting residential uses or residential zoning districts in order to build the same structure 20 feet from the side property line. The property more fully described is Lots 1, 2, 3 14, 15 & and 16, Block 7, NCB 1440, the address being 2203 East Commerce Street. I move that the Board of Adjustment grant the applicant's request regarding Appeal No. A-07-098, application for a variance to the subject property as described above, because the testimony

provide 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 **in speaking with the applicant we have learned that the neighbors most affected by this are in favor of the project.** Due to special conditions, literally enforcement of the ordinance would result in unnecessary hardship in that **this particular property is limited in size and specifically due to zoning classification.** So that the spirit of the ordinance is observed and substantial justice is done in that **this would actually help provide some greenspace in an area and our city will certainly need this by the plan presented to us.** 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 variance is designated specifically for this property and none other.** Such variance will not substantially or permanently injure the district in which the variance is sought in that **this is going to be a single story structure according to the applicant and thus be less atrusive.** Such variance will not alter the essential character of the district in which the variance is sought in that **this sort of structure would indeed blend in and provide an improvement to the local area.** Such variance will be in harmony with the spirit and purpose of this chapter in that **it will actually help to benefit the tourist industry and the city of San Antonio.** 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 **this will provide an economic enhancement in an area of which if you think about it is zoned industrial and thus this provides a much more beneficial type of use of this 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 sort of structure would blend into the local area.** The variance will not adversely affect the public health, safety or welfare of the public in that **it would actually provide a safe parking area for the tourist in our area.** The motion seconded by Mr. Hardemon.

AYES: Gallagher, Hardemon, Alejos, Rogers, Yarborough, Camargo, Dutmer, Klein, Cruz, Villyard
NAY: None

THE VARIANCE WAS GRANTED.

CASE NO. A-07-100

Applicant – Brenda Vaughn
Lot 26 and the east 3 feet of Lot 25, Block 20, NCB 2015
1902 West Ashby Place
Zoned: “C-2” Commercial District Woodlawn Lake Neighborhood Association

The applicant is requesting a 3-foot, 4-inch variance from the Unified Development Code requirement that a minimum 10-foot side setback be maintained in a “C-2” zoning district when abutting a residential use or residential zoning district, in order to construct a building 6 feet, 8 inches from the side property line.

David Arciniaga, Planner, presented background and staff's recommendation of denial on this case. He indicated that 18 notices were mailed, 5 notices were returned in favor and 0 notices were returned in opposition and no response from Woodlawn Lake Neighborhood Association.

Brenda Vaughn, owner, stated the purpose of this variance request is to allow her to establish a flower shop.

Daniel Vaughn, brother-in-law, stated they have saved up money and the neighbors are in favor of a flower shop.

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-07-100 closed.

MOTION

A motion was made by **Mr. Camargo**, requested to move on Appeal Case No. A-07-100, request of **Brenda Vaughn on property known as Lot 26 and the east 3 feet of Lot 25, Block 20, NCB 2015, 1902 W Ashby**. For the following reasons that such variance will not be contrary to the public interest in that **the majority of the property owners within 200 feet have returned either notices in favor or have signed the petition for the applicant favoring the particular request**. Due to the special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the adjacent property is currently zoning "C-2" Commercial but because of the fact that there is a residential use existing on that property today this 10-foot setback requirement is imposed by the code I would think that that would be a temporary situation and that over time those properties that are currently zoned commercial will transition to that**. So that the spirit of the ordinance is observed and substantial justice is done in that **the proposal that is before us today is a mere extension of an existing building that has the same setbacks that are proposed for the new structure**. Such variance will not authorize the operation of a use other than those uses specifically authorized for the districts in which the property is in **and the property is zoned "C-2" Commercial and the applicant stated that a flower shop is proposed for the property which is a permitted use**. Such variance will not substantially or permanently injure the district in which that variance is sought in that **as other commercial properties develop in this area lesser setbacks and that which is being requested may be adhered to**. Such variance will not alter the essential character of the districts in which the variance is sought in that **you have many other commercial structures in this area with lesser setbacks in that which is being requested**. Such variance will be in harmony with the spirit and purpose of this chapter in that **the request is very appropriate in comparison to surrounding developments and zoning classifications in this 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, **as pointed out by an individual that spoke in favor of this request. The fact that there is a residential use on the adjacent property is the only reason that there are before us here requesting 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 current regulations intended to allow a lesser setback for commercial properties.** The variance will not adversely affect the public health, safety or welfare of the public in that **permits and inspections will be taken by the applicant to insure safe construction of this proposed structure.** The motion was seconded by **Mrs. Dutmer.**

AYES: Camargo, Dutmer, Gallagher, Alejos, Yarborough, Cruz, Rogers, Klein, Villyard, Hardemon

NAYS: None

THE VARIANCE WAS GRANTED



Approval of the Minutes

Mr. Camargo moved to approve the amended minutes of September 11, 2006 and was seconded by Mr. Gallagher and all members voted in the affirmative.

Mr. Gallagher moved to approve the minutes of February 6, 2006 and was seconded by Mr. Camargo and all members voted in the affirmative.

Mr. Gallagher moved to approve the corrected minutes of August 20, 2007 and was seconded by Mr. Klein and all members voted in the affirmative,

Mrs. Dutmer moved to approve the minutes of September 17, 2007 and was seconded by Mrs. Rogers and all members voted in the affirmative,



Staff Report

Chris Looney, Planner, stated City staff will provide Board Member information on denied cases and what the status is on those cases. He further stated the Technical Advisory Committee modified the proposed fence amendments which will be presented to Planning Commission and Zoning Commission in November and will brief Board Members with results.



