

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
October 18, 2010**

Members Present:

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

Staff:

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

Call to Order

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

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

CASE NO. A-10-075

Applicant – Maricela Quezada
Lot 1, Block 9, NCB 18589
8203 Misty Willow Drive
Zoned: “R-6 AHOD” Residential Single-Family Airport Hazard Overlay District

The applicant is requesting a special exception to allow a one-operator beauty or barber shop.

Jacob Floyd, Planner, presented background and staff’s recommendation of approval of the requested Special Exception. He indicated 21 notices were mailed, one was returned in favor and 8 were returned in opposition and the West Wildwood Neighborhood Association is in opposition.

Maricela Quezada, applicant, stated she wants an opportunity to have her salon and have customers by appointment only to control the traffic at her home. She also stated she can only do one person at a time because she will be the only one doing this and she is planning to do this for forty hours per week. She further stated she is the process of obtaining her state license.

The following citizens appeared to speak:

William Conaway, citizen, spoke in opposition.

Richard Richard, citizen, spoke in opposition.

Robert Bustos, citizen, spoke in opposition.

Octoviano Ramirez, 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-10-075 closed.

1st MOTION

A motion was made by **Ms. Rogers**. Re Appeal No. **A-10-075**, application for a **special exception to allow a one-operator beauty shop**, at **8203 Misty Willow Drive**, subject property description being **Lot 1, Block 9, NCB 18589**, applicant being **Maricela Quezada**. I move that the Board of Adjustment grant the applicants request regarding this appeal 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 35-399.01. 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 **the applicant states that the one-operator beauty shop will follow the specific criteria established in Sec 35-399.01 of the UDC**. The public welfare and convenience will be substantially served in that **because the shop will operate within the parameters set forth by Sec 35-399.01 and will serve as a public convenience within a residential area**. The neighboring property will not be substantially injured by such proposed use **because the primary use of the property will remain a single-family residence and in this specific case only 13 percent of the property will be used for the shop which is well within the parameters established**. 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 **because the property is located in that here again we say that it will be confined to less than 25% of the gross floor area**. The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district in that **the purpose of the district is to promote the public health, safety morals, and general welfare and this special exception does not weaken any of these in any way**. **There will not be excessive traffic involved with this and that the persons who will be visiting the shop will park in the driveway. This will be for forty hours per week. I am proposing for one year in order to allow the neighborhood to determine whether or not this will work. At the end of one year she will need to come back for a reapplication and normally we do this for two. The hours being only 40 hours per week at her discretion. I will hope that they would be hours that would not coincide with the major traffic times**. The motion was seconded by **Ms. Dutmer**.

AYES: Rogers, Dutmer, Camargo, Britton, Victor, Villyard, Klein, Gallagher
NAY: Atkinson, Hardemon

THE MOTION FAILS.

2nd MOTION

A motion was made by **Mr. Camargo**. I would like to move that the Board of Adjustment in Case No **A-10-075**, a request by **Armando Jimenez and Maricela Quezada**, on property known as **8203 Misty Willow Drive**, with a legal description of **Lot 1, Block 9, NCB 18589**, be granted **an exception to operate a beauty shop at the above listed property**. 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 **the application states that one operator beauty shop and will follow the established criteria that is established in the code for which the applicant must follow in order to have such an operation**. The public welfare and convenience will be substantially served in that **the shop will operate within certain specified hours which will be stated at the end of the motion**. The neighboring property will not be substantially injured by such proposed use in that **this is a special exception which is allowed in a residential zone by our Unified Development Code**. The code goes further that it allows **the adjacent property owners to make the city aware if there are any discrepancies in the operation of the business for which the operator of the applicant here is violating**. Staff has the authority to bring that to the attention of the board at any such time that occurs and the board has the authority to reopen that case and perhaps deny that right if in fact it can be shown that they have violated the requirements specified in the code. 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 **the subject property is located in fact on a piece of property that can very well be considered in my opinion as a commercial zone due to its location at a major arterial such as Guilbeau and the side street Dawnwood which is the only entrance to this 250 residential subdivision**. This property seems to experience **quite a bit of noise and traffic because of that particular situation**. The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district in that **it is felt by our city regulations that a one operator home occupation beauty shop can be allowed in a residential zone, which is what the applicant is making in this case**. I would move that the hours of operation be those which again would not conflict with the school buss traffic that has been brought to the attention by one of the individuals. In fact the applicant has asked for operation from 10 in the morning until 7 pm. I don't know what the bus schedules are in this area, but 10 am I would think kids would have already been picked up and 7 pm is pretty late, usually they are home by then. On Saturdays well obviously there is no school bus traffic and the applicant has requested 9 am to 5 pm, but in total the number of hours shall not exceed 40 hours per week which will be so stipulated in the certificate of occupancy. I making this motion for a period of 14 months as oppose to the 12 months that was previously denied. The motion was seconded by Mr. Atkinson.

AYES: Camargo, Victor, Villyard, Dutmer, Rogers, Britton, Klein, Hardemon
NAY: Atkinson

THE SPECIAL EXCEPTION IS GRANTED.

CASE NO. A-10-075

Applicant – Luis Elizardo
Lot 97, Block 2, NCB 15972
8715 Five Palms Drive
Zoned: “R-6 AHOD” Residential Single-Family Airport Hazard Overlay District

The applicant is requesting a special exception to allow a one-operator beauty/barber shop.

Jacob Floyd, Planner, presented background and staff’s recommendation of approval of the requested variance. He indicated 33 notices were mailed, one was returned in favor and one was returned in opposition and no response from Southwest Community Association.

Luis Elizardo, applicant, stated he is requesting this special exception because he is able to care for his children and pick them up from school. He also stated in the five years that he has been in operation he has not had any complaints or any violations through the city nor through the Texas Department of licensing and regulations. He further stated he is requesting for four years and parking is not a problem since most of his clientele are within walking distance.

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-10-076 closed.

MOTION

A motion was made by **Mr. Klein**. Re Appeal Case No. **A-10-076**, subject property is **Lot 97, Block 2, NCB 15972**, also known as **8715 Five Palms Drive**, zoning is “**R-6 AHOD**” **Residential Single-Family Airport Hazard Overlay**, the applicant is **Mr. Luis Elizardo**. I move that the Board of Adjustment grant the applicants 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 35-399.01. 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 **it will not create a safety hazard for the neighborhood and has been in existence since being approved June 20, 2005**. The public welfare and convenience will be substantially served in that **the applicant indicated during the testimony that a number of his patrons are in fact neighbors who find it very convenient to walk to the subject location for haircuts and beauty salon activities**. The neighboring property will not be substantially injured by such proposed use in that **the use of the property will not cause ingress or egress issues and has not indicated any such problems during the time this one-operator shop has been in existence**. 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

the zoning will not change, it will remain “R-6” Residential Single-family. The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district in that **this will allow the applicant to remain closer with his children during the daytime hours and will allow him to monitor schoolwork and their daily activities.** This motion for a special exception is for a 4-year term commencing at the appropriate time and association with this variance and not to exceed a maximum of 34 hours weekly. The motion was seconded by **Mr. Hardemon.**

AYES: Klein, Hardemon, Atkinson, Dutmer, Camargo, Victor, Villyard, Britton, Rogers, Gallagher

NAY: None

THE SPECIAL EXCEPTION WAS GRANTED.

Approval of the October 4, 2010 Minutes

The October 4, 2010 minutes were approved with all members voting in the affirmative.

There being no further discussion, meeting adjourned at 2:25 p.m.

APPROVED BY: _____ OR _____
Michael Gallagher, Chairman Andrew Ozuna, Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary