

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
October 19, 2009**

Members Present:

Michael Gallagher
Gene Camargo
Liz Victor
Edward Hardemon
Helen Dutmer
George Britton
Rolando Briones
Mary Rogers
Mike Villyard
Henry Rodriguez
Mimi Moffat

Staff:

Fernando De León, Assistant Director
Rudy Niño, Jr., Senior Planner
Jacob Floyd, Planner
Michael Farber, 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.

Ms. Moffat arrived at 1:04 p.m.

CASE NO. A-09-082

Applicant – Koontz McCombs
Lot 28, Block 9, NCB 15825
14111 Vance Jackson
Zoned: “MF-33” Multi-Family District and “MF-33 ERZD” Multi-Family Edwards Recharge Zone District

The applicant is requesting for a 100-foot variance from the requirement that on-premise signs along streets classified as Secondary Arterial “Type A” be at least 150 feet apart in order to erect two on-premise monument signs that would sit 50 feet apart.

Michael Farber, Planner, presented background and staff’s recommendation of denial of the requested variance. He indicated 15 notices were mailed, 2 were returned in favor and none were returned in opposition.

Rob Killen, applicant, stated the typical pattern is to put one sign in the median but due to clear vision areas the sign would be set back that it would not be visible for drivers. He also stated the signs can not be pushed back further due to utilities being behind both signs and landscaping.

The following citizens appeared to speak:

Michelle Ross, 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-09-082 closed.

MOTION

A motion was made by **Mr. Briones**. Re Appeal No **A-09-082**, variance application for **14111 Vance Jackson**, subject property description is **Lot 28, Block 9, NCB 15825**, applicant **Koontz McCombs**. I move that the Board of Adjustment grant the applicant's request regarding Appeal No **A-09-082**, application for a sign variance to the subject property as described above, because the testimony presented to us, and the facts that we have determined show that the physical character of this property is such that a literal enforcement of the provisions of the UCD, as amended, would result in an unnecessary hardship. Specifically we find that the variance is necessary because strict enforcement of this article prohibits any reasonable opportunity to provide adequate signs on the site, considering the unique features of a site and the board finds that granting the variance does not provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated and granting the variance will not have a substantially adverse impact upon neighboring properties and granting the variance will not substantially conflict with the stated purposes of this article. **In addition granting this variance will clear up issues such as unsafe u-turns due to traffic issues based on the horizontal curvise of the road, clear vision issues that are also up for the same reason, and will reduce the overall potential signs of the site.** The motion seconded by **Ms. Rogers**.

AYES: Briones, Rogers, Hardemon, Rodriguez, Victor, Dutmer, Camargo, Britton, Gallagher

NAY: Villyard, Moffat

THE VARIANCE WAS GRANTED.

CASE NO. A-09-089

Applicant – Gay Gueringer
West 281.78 feet of Lot 12, Block 13, NCB 13827
14516 Brook Hollow
Zoned: "C-3" General Commercial District

The applicant is requesting an appeal of the decision of the Director of Planning and Development Services to deny permits to repair an existing sign based on the interpretation of Section 25-245 "Nonconforming Sign Abatement".

Jacob Floyd, Planner, presented background and staff's recommendation that the board uphold the Director's decision to deny permits to repair an existing sign based on the interpretation of Section 25-245. He indicated 22 notices were mailed, 2 were returned in favor and none were returned in opposition and no response from the Shady Oaks Neighborhood Association.

Gay Gueringer, representative, stated the previous sign was burned down. She also stated other than 10 foot reduction in sign face the sign would like almost identical to what was there prior to the fire.

The following citizens appeared to speak:

Larry Godsman, 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-09-089 closed.

MOTION

A motion was made by **Mr. Camargo**. I would move that in **Case No A-09-089** grant the request of the applicant which is to overrule the decision of the director in reference to the interpretation of the sign code in this particular case. It has been brought out that yes in fact the code limits the repairs to such sign as to maintenance but also there has been other sections of the code that have been stated and explained by the applicant's representative as to the repair function that must occur on a sign that has been damaged not intentionally by the owner but by situations that occur beyond the control of the owner. It has been shown that signage erected at this location to the height that is permitted by the code for this particular type street would in fact not give the visibility that is needed to advertise the tenants of this location. It is been stated that a new sign of 20 feet in height is what is allowed at this particular location and it has also has been shown that due to existing vegetation on the site that signage would be obscured. It's also been stated and I think confirmed by city staff that the repair cost of this cabinets that were burned down is at a cost less than 50 percent of the total evaluation of this entire structure. The applicant's representative has also stated that it is that person's understanding that the owner of the property proposes no other signage on this track of land, on this frontage other than the multi tenant sign that is under discussion. Also I would like to point out that the applicant's representative has indicated that the sign cabinets that are to be replaced will be of a lesser sign face area in that which that existed prior to the fire. The motion seconded by **Mr. Rodriguez**.

AYES: Camargo, Rodriguez, Hardemon, Villyard, Victor, Rogers, Britton, Briones, Dutmer, Gallagher

NAY: Moffat

THE MOTION PASSES.

CASE NO. A-09-091

Applicant – Danny Ortega (French Ellison Truck Center)
22.116 acres out of Lot 1, Block 7, NCB 16567
9010 IH-10 East
Zoned: “C-3” General Commercial District

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

Michael Farber, Planner, presented background and staff’s recommendation of denial of the requested variance. He indicated 7 notices were mailed, one was returned in favor and none were returned in opposition.

Danny Ortega, applicant, stated the fence is being used for security measures of the trucks that are parked in the yard. He also stated the fence is also ecstasically pleasing for the area.

No citizens appeared to speak.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-09-091 closed.

MOTION

A motion was made by **Mr. Camargo**. I would like to move that in Appeal A-09-091, an appeal submitted by the applicant to grant a **2-foot variance from the requirement that predominantly open front yard fences not exceed 4 feet in height, in order to erect a 6-foot tall fence in the front yard**, on property known as **9010 IH-10 East**, also legally described as **22.116 acres out of Lot 1, Block 7, NCB 16567**. I move that the Board of Adjustment grant the applicant’s request. Such variance will not contrary to the public interest in that **there was no indication from staff that there was opposition from adjacent property owners or anyone else other than staff to the requested change**. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **this property which fronts onto IH-10 and the vicinity of several other truck sales company is the one that the applicant proposes is the mirror fact of the size and the cost of what he is displaying warrants this individual to take precautionary security measures to protect the property and vehicles that he proposes to display**. The spirit of the ordinance is observed and substantial justice is done in that **the applicant’s proposal of a six foot open wrought iron fence would actually and the landscaping that is being required by the ordinance that he is going to provide actually would enhance this property above and beyond others that have similar fences in the area**. Such variance will authorize the operation of a use other than those uses specifically authorized fro the district in which the subject property is located in that **the zoning of this property which is “C-3” General Commercial allows the sales of vehicles as the applicant proposes**. Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located in that it

would not injure the adjacent conforming property and if anything would be in compliance with other nonconforming fences in that exist in the area. The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located in that **it is just a fact that in order for this applicant to display onto a freeway and use his advertisement the placement of these large trucks up to the front necessitates that he take the measures that he proposes here in erecting a security fence in the form of a six foot wrought iron fence.** The motion seconded by Ms. Dutmer.

AYES: Camargo, Dutmer, Rodriguez, Hardemon, Villyard, Britton, Rogers, Briones, Victor, Gallagher

NAY: Moffat

THE VARIANCE WAS GRANTED.

Board members took a 10-minute recess.

CASE NO. A-09-093

Applicant – Paul Hiers
Lot 15, Block 13, NCB 17643
8919 Deer Park
Zoned: “R-6” Residential Single-Family District

The applicant is requesting 1) a 1-foot, 3-inch variance from the requirement that a minimum 5-foot side setback be maintained in “R-6” zoning districts, in order to keep an existing carport 3 feet, 9 inches from the east side property line and 2) a 15-foot, 6-inche variance from the requirement that a minimum 20-foot front setback be maintained (Volume 9506, Page 151 Deed and Plat Records of Bexar County), in order to keep an existing carport 4 feet, 6 inches from the front property line.

Jacob Floyd, Planner, presented background and staff’s recommendation of denial of the requested variance. He indicated 36 notices were mailed, 10 were returned in favor and 2 were returned in opposition.

No citizens appeared to speak.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-09-093 closed.

MOTION

A motion was made by **Mr. Villyard to postpone this case until the next available regularly scheduled meeting.** The motion seconded by **Ms. Moffat.**

AYES: Victor, Hardemon, Dutmer, Britton, Briones, Rogers, Villyard, Camargo, Moffat, Rodriguez, Gallagher

NAY: None

THE MOTION PASSES.

CASE NO. A-09-095

Applicant – Jesus Millan
Lot 12, NCB 7028
927 Chicago Boulevard
Zoned: “R-4” Residential Single-Family District

The applicant is requesting a 2-foot variance from the requirement that a minimum 5-foot side setback be maintained in “R-4” zoning districts, in order to keep an existing structure 3 feet from the east side property line.

Michael Farber, Planner, presented background and staff’s recommendation of denial of the requested variances. He indicated 30 notices were mailed, two were returned in favor and none were returned in opposition and no response from the Highland Park Neighborhood Association.

Dora Millan, applicant, stated a neighbor’s tree fell on top of the carport and they rebuilt the carport. She also stated she did not realize she needed a permit and that she built the carport exactly the way it was before it was knocked down by the tree.

No citizens appeared to speak.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-09-095 closed.

MOTION

A motion was made by **Mr. Camargo.** I would move that in Case A-09-095, that the Board of Adjustment grant a continuance and that city staff meet with the applicant and explain any firewall that might be required, the removal of the overhang, and everything that we have been discussing here back and forth. The motion seconded by **Mr. Villyard.**

AYES: Victor, Hardemon, Dutmer, Britton, Briones, Rogers, Villyard, Camargo, Rodriguez, Moffat, Gallagher

NAY: None

THE MOTION PASSES.

CASE NO. A-09-096

Applicant – Joe Salas
Lots P-1E (.284), P-11D (5.716), P-11H, and P-94A, NCB 14492
9545, 9607, and 9611 New Laredo Highway
Zoned: “C-3R” General Commercial District, Restrictive Alcohol Sales

The applicant is requesting a variance from the requirement in Chapter 16, Article 7 of the City Code, which requires that all salvage yards shall be enclosed on all sides (including front and rear) with a substantial and anchored wall or screen fence constructed as an adequate barrier to inhibit the migration of rodents and other vectors from the salvage yard to an adjacent property, so that a wall or screen fence is not required along the rear property line (parallel to Quintana Road).

Jacob Floyd, Planner, presented background and staff’s recommendation of denial of the requested variance. He indicated 19 notices were mailed, 3 were returned in favor and none were returned in opposition and one notice was received with no response.

Steve Garcia, representative, stated the closest residence is 300 yards away from the salvage yard. He also stated you can not visually see the nearest residential neighborhood from the salvage yard.

The following citizens appeared to speak:

Chan Ruzo, 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-09-096 closed.

MOTION

A motion was made by **Mr. Villyard**. Re Case No **A-09-096**, an application for a variance **from the requirement of Chapter 16 of the City Code that requires that the erection of a solid fence along the rear property line of this salvage yard, the application indicates that the natural vegetation along the rear of the property line meets the screening**, the property is located at **9545, 9607, and 9611 New Laredo Highway**, described as **Lots P-4E (.284), P-11D (5.716), P-11H, and P-94A, NCB 14492**, the zoning is **“C-3R” General Commercial District, Restrictive Alcohol Sales, and it serves as a salvage yard**. I move that the Board of Adjustment in this case grant the appeal as described because 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 is an isolated area several hundred feet from a residential area**. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that

the rear view area it has a lot of natural vegetation and they wish to retain that. Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property is located in that **according to testimony we have heard there are a number of salvage yards and many of those are not completely fenced.** The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located in that **as we have said before there are a number of salvage yards in the area and the area is partially settled.** The motion seconded by **Mr. Hardemon.**

AYES: Rodriguez, Dutmer, Camargo, Rogers, Briones

NAY: Villyard, Hardemon, Britton, Moffat, Victor, Gallagher

THE VARIANCE WAS NOT GRANTED.

CASE NO. A-09-098

Applicant – Brenda A Stahl
Lot 13, Block 2, NCB 10106
150 East Vestal Place
Zoned: “R-4” Residential Single-Family District

The applicant is requesting a 5-foot variance from the Ingram Hills Neighborhood Conservation District (NCD-3) requirement that a minimum 10-foot side setback be maintained in order to erect an addition that would sit 5 feet from the east side property line.

Jacob Floyd, Planner, presented background and staff’s recommendation of approval of the requested special exception for a two-year period. He indicated 26 notices were mailed, none were returned in favor and 3 were returned in opposition.

Brenda Stahl, applicant, stated that she is requesting this special exception because she is a single parent and a sole provider for her four children. She also stated it will allow her to be a stay at home mom and still be able to care and provide for her children. She is currently employed part-time and works in the early mornings. She stated the operation will be part time since her family go to church on Sundays, Wednesdays, and Fridays. She further stated the hours of operation she is requesting are Monday, Tuesday, Thursday, and Saturday from 10 am to 5 pm.

The following citizens appeared to speak:

Isabel Stahl, 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-09-090 closed.

MOTION

A motion was made by **Ms. Victor**. Re Appeal No **A-09-098**, variance application for **150 East Vestal Place, Lot 13, Block 2, NCB 10106**, zoning is **"R-4" Residential Single-Family District**. I move that the Board of Adjustment grant the applicant's request regarding Appeal No **A-09-098**, to operate a one person beauty shop in her home the hours will **Monday, Tuesday, Thursday, and Saturday 10 am to 5 pm**. The application 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 be a one person beauty salon and it will operate during daytime hours and not excessively**. The public welfare and convenience will be substantially served in that **at the very most the statue allows a one foot by one foot sign and there will be no outside advertising and that there is plenty of space for two to three cars so that it will not interfere with traffic in the area**. The neighboring property will not be substantially injured by such proposed use in that **there will really be no outside show that there is a beauty salon, again it is not going to impact traffic, it is not going to make any type of safety issues, and it is going to be during daytime hours**. The special exception will alter the essential character of the district and location in which the property for which the special exception is sought in that **there will be no use that is not allowed within current code for a single operator beauty salon in a residential district**. 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 currently allowed to run a beauty salon as long as the statue is followed correctly and as presented it does not appear that it will cause any difference in the neighborhood**. The variance will be for a two-year period. The motion seconded by **Ms Moffat**.

AYES: Victor, Moffat, Rodriguez, Hardemon, Camargo, Dutmer, Villyard, Britton, Briones, Rogers, Gallagher

NAY: None

THE VARIANCE WAS GRANTED.



Sign Master Plan No. 10-001

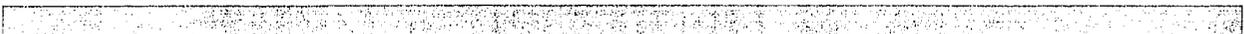
Arturo Elizondo, Sign Inspector, briefed Board Members on Sign Master Plan for Alamo Commons, located at South Zarzamora and IH-35 South.

Ms. Rogers made a motion to approve **Sign Master Plan No. 10-001** and was seconded by **Mr. Britton**.

AYES: Rogers, Briones, Victor, Camargo, Hardemon, Dutmer, Britton, Gallagher

NAY: Moffat, Villyard

THE SIGN MASTER PLAN WAS APPROVED.



[REDACTED]

Approval of the September 21, 2009 Minutes

The September 21, 2009 minutes were approved with all members voting in the affirmative.

[REDACTED]

Nominations of Board of Adjustment member to the Planning Commission's Technical Advisory Committee (TAC)

Ms. Dutmer nominated Mr. Camargo for appointment to the Planning Commission's Technical Advisory Committee(TAC). Ms. Rogers seconded the motion. All members voted in affirmative

[REDACTED]

Chris Looney, Planning Manager, briefed Board members on the Planning Commission's Technical Advisory Committee.

[REDACTED]

There being no further discussion, meeting adjourned at 4:44 p.m.

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

DATE: 11-16-09

ATTESTED BY: [Signature] DATE: 11/18/09
Executive Secretary