

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
September 17, 2012**

Members Present:

Michael Gallagher
Frank Quijano
Helen Dutmer
George Britton
Jesse Zuniga
David Villyard
Gene Camargo
Maria Cruz
Henry Rodriguez
Harold Atkinson

Staff:

Margaret Pahl, Senior Planner
Tony Felts, 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-12-086

Applicant – Oak Meadow Homeowner’s Association, Veronica Gonzalez, President
Lots 1-5, Block 12, NCB 18023
2703, 2707, 2711, 2715, and 2719 Bramblebush Drive
Zoned: “R-6 ERZD AHOD MLOD” Residential Single-Family Edwards Recharge Zone Airport
Hazard Overlay Military Lighting Overlay District

The applicant is requesting a 2-foot variance from the 6-foot maximum height fence height requirements to allow a privacy fence 8 feet in height, along the rear property lines.

Tony Felts, Planner, presented background and staff’s recommendation of approval of the requested variance. He indicated 32 notices were mailed, 3 were returned in favor and one was returned in opposition.

Veronica Gonzalez, representative, stated this variance would allow them to comply with their strict covenants. She also stated mostly all the property owners in this subdivision have an 8-foot fences in the rear. She further stated the fence would allow security, privacy, and consistency with all the other houses in the subdivision.

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-12-063 closed.

MOTION

A motion was made by **Mr. Camargo**. I would move that in Case No. **A-12-086**, the applicant being **Oak Meadow Homeowner's Association**, on property legally described as **Lots 1-5, block 12, NCB 18023** be granted a **2-foot variance from the 6-foot maximum fence height requirement to allow a privacy fence 8 feet in height**. Specifically, we find that such variance will not be contrary to the public interest in that **fence height regulations are designed to promote orderly development, reduce visual distraction, and create a sense of community, especially in neighborhoods. In this case, the UDC provides a mechanism to allow fences of the requested height along major street streets be allowed without any variance from this Board of Adjustment. The property in question today abuts a commercial type of land much of which is wooded and will provide some needed privacy and security for the adjacent property owners. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that a literal enforcement of the ordinance would result in an unnecessary hardship to the property owners by not affording them the protections of the higher fence. The spirit of the ordinance is observed and substantial justice is done in that the spirit of the ordinance will be observed and substantial justice will be done by granting the requested variances.** Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the subject property is located in that **the requested variance will not authorize the operation of any use other than that of single family which the property is currently zoned.** 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 **the requested variance will not substantially injure the appropriate land use and adjacent land use to the single family development.** 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 **the plight of the owners is based on unique circumstances that there is a small sliver of commercial property between it and a major thoroughfare and the 8-foot fence that is being requested would be allowed without any need for this board to grant a variance. Further, staff is recommending approval of the request in this particular case.** The motion was seconded by **Mr. Zuniga**.

AYES: Camargo, Zuniga, Dutmer, Villyard, Quijano, Cruz, Rodriguez, Britton, Atkinson, Gallagher

NAYS: None

THE VARIANCE WAS GRANTED.

CASE NO. A-12-087

Applicant – Kaufman & Killen, Inc.

Lots 5, 6, & 7, Block 3, NCB 9021 and Lots TRI 1, TRI2, TRI3, P-+100 & P101, Block 1, NCB 9019 and a 0.710 acre vacated portion of Oaktree Drive described in Ordinance 2012-06-021-0489

1130, 1202, 1234 & 1250 E Mulberry Avenue

Zoned: “C-2 NCD-6 AHOD” Commercial, Neighborhood Conservation District 6, Airport Hazard Overlay District and “MF-33 NCD-6 AHOD” Multi-Family 33, Neighborhood Conservation District-6 Airport Hazard Overlay District

The applicant is requesting 1) a variance from a requirement that all dwelling units shall provide an entry from a primary street through required transition space to allow unit entrances from inside the building and inside the site, 2) a 170-foot variance from the maximum building width of 80-feet to allow six buildings no longer than 250-feet in width, and 3) a 14-foot variance from the maximum 40-foot building height to allow five buildings up to 54-feet in height, on a 10.2 acre parcel also known as 1130, 1202, 1234 & 1250 E Mulberry Avenue.

Margaret Pahl, Senior Planner, presented background and staff’s recommendation of approval. He indicated 20 notices were mailed, 2 were returned in favor and none were returned in opposition.

Bill Kaufman, applicant, stated there are about 253 units and after the project there will be a little over 280 units. He also stated the project will consist of a children’s museum. He further stated the site has an irregular shape and the topography is difficult and expense to work around. The variance would allow for them to construct around some trees that are trying to be saved.

The following citizens appeared to speak.

Michael Lockridge, citizen, spoke in favor.

Maria Villarreal, 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-12-082 closed.

MOTION

A motion was made **Mr. Camargo**. I would like to move that in Case No A-12-087, the applicant being **Kaufman & Killen, Inc.**, on property located at **1130, 1202, 1234 & 1250 E Mulberry Avenue**, with a legal description of **Lots 5, 6 & 7 block 3, NCB 9021 and Lots TRI 1, TRI 2, TRI 3, P-100 & P101, Block 1, NCB 9019 and a 0.710 acre vacated portion of Oaktree Drive described in Ordinance 2012-06-21-0489**, and that this board grant the three requested variances which consist of 1) **a variance from a requirement that all dwelling units provide an entry from a primary street through a required transition space to allow unit entrances from inside the building and inside the site**, 2) **a 170-foot variance from the**

maximum building width of 80-feet to allow eight buildings no longer than 250-feet in width, and 3) a 14-foot variance from the maximum 40-foot building height to allow five buildings up to 5-feet in height be granted. The applicant and staff have provided tremendous amount of information regarding this proposed development. Specifically, we find that such variance will not be contrary to the public interest in that **mainly some trees, the majority of trees will be lost and will require mitigation. The variances assist in a site layout that will minimize tree lost an important goal in the public interest. In addition the removal of the housing and the reduction of police calls furthers the overall public interest in this project.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the applicant explains that the combination of site features, including width, grade and heritage trees made site planning very difficult. Several versions of the site plan have been discussed and ultimately this was the site that seemed to meet the majority of the code requirements. These requirements in the Neighborhood Conservation District, if enforced here, would result in an unnecessary hardship given the unique characteristics of the 10 acre site cannot include an entry onto a primary street, which would be an unnecessary hardship for residents on the upper floors.** The spirit of the ordinance is observed and substantial justice is done in that **this case, the project satisfies the development standards of the multi-family 33 classification but is seeking a regulatory flexibility from some of the NCD standards. It is felt that this project certainly meets the spirit of the ordinance intended for this particular area.** Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the subject property is located in that **there is no use variations on this proposed site and that multi-family dwelling are proposed in this multi-family zoning classification.** 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 **this size is itself influential and will create a lasting character to be recognized in the future redevelopment of Fort Sam Houston.** 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 **there are several property-related features and circumstances that differentiate this property from the majority of parcels in the NCD-6 zoning district. It is 10 acres in size, far larger than the typical 0.170 acre single-family lot. The slopes on this particular property make it somewhat of challenge in that coming up with a property design and also allowing the density which is proposed in this plan. Finally, the lot varies in depth between 360 and 550-feet. Each of the units constructed on the site will not have an entrance from the primary street, but many ground floor units with frontage on the street will. This effort will create the lively pedestrian orientation described in the NCD district. Finally the staff recommends approval of the requested changes. The motion was seconded by Ms. Dutmer.**

AYES: Camargo, Dutmer, Villyard, Rodriguez, Zuniga, Quijano, Cruz, Atkinson, Britton, Gallagher

NAYS: None

THE VARIANCE WAS GRANTED.



Approval of the Minutes

The August 27, 2012 minutes were approved with all members voting in affirmative

Discussion of 2013 Public Hearing Calendar

Board members discussed the 2013 Public Hearing Calendar. This item will be considered at the next regularly scheduled meeting.
