BOARD OF ADJUSTMENT
OFFICIAL MINUTES
August 4, 2014

Members Present:

Mary Rogers
Frank Quijano
Alan Neff
Gabriel Velasquez
George Britton
Maria Cruz
Jesse Zuniga
Roger Martinez
Gene Camargo
Henry Rodriguez
Christopher Garcia

Staff:
Catherine Hernandez, Planning Manager
Margaret Pahl, Senior Planner
Tony Felts, Senior Planner
Paul Wendland, City Attorney

Call to Order

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

Ms. Rogers, Vice-Chair, called the meeting to order and called roll of the applicants for each case.

CASE NO. A-14-082

Applicant – Aetna Sign Group
Lot 34, Block 6, NCB 13266
2961 Mossrock Drive
Zoned: "O-2 AHOD" High-Rise Office Airport Hazard Overlay District

The applicant is requesting 1) A 90-foot variance from the 100-foot setback for an expressway sign without direct frontage along an expressway to allow an expressway sign 10 feet from the front property line; 2) a 73-foot variance from the 200-foot setback from residentially zoned properties to allow an expressway sign 127 feet from a residential district; and 3) a 10-foot variance from the 50-foot maximum height limitation for a single-tenant expressway sign to allow an expressway sign 60 feet in height.

Tony Felts, Senior Planner, presented background and staff's recommendation of approval of the requested setback variances and denial of the requested height variance. He indicated 18 notices were mailed, 1 was returned in favor and one was returned in opposition.

Larry Gottsman, applicant, stated they want to maintain the aesthetics of the original display. He also stated the height variance would allow for the trees to be preserved.

No citizens appeared to speak.

Janet Dietel, citizen, read a letter of support for the setback variance and opposition of the height variance from the San Antonio Conservation Society.

Robert Gonzales, citizen, spoke in opposition any construction of digital signs.

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-14-082 closed.

MOTION

A motion was made by **Mr. Quijano**. "Re Appeal No **A-14-082**, variance application for **1) a 90-foot variance from the 100-foot setback for an expressway sign without direct frontage along an expressway to allow an expressway sign 10 feet from the front property line; 2) a 73-foot variance from the 200-foot setback from residentially zoned properties to allow an expressway sign 127 feet from a residential district; and 3) a 10-foot variance from the 50-foot maximum height limitation for a single-tenant expressway sign to allow an expressway sign 60 feet in height**, subject property description **Lot 34, Block 6, NCB 13266,** applicant being **Aetna Sign Group.** I move that the Board of Adjustment grant the applicant's request regarding Appeal No. **A-14-082**, 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 Unified Development Code, as amended, would result in an unnecessary hardship. 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 such as its dimensions, landscaping, or topography. A denial of the variance would probably cause a cessation of legitimate, longstanding active commercial use of the property. **Because of the unique design and orientation of the site, being narrow and also abutting a residential single-family zoning district to the west, the requirements for setbacks would eliminate any possibility for having an expressway-grade sign on the property. As such, special conditions exist to warrant the granting of the requested setback variances.** After seeking one or more of the findings set forth in (1) or (2), the board finds that **the requested setback variances would not grant a special privilege not enjoyed by other businesses similarly situated as not granting the variance would result in the property owner not being able to erect an expressway-grade sign.** Granting the variance will not have a substantially adverse impact upon neighboring properties. **Granting the requested setback variances will not have a substantially adverse impact on neighboring properties because the proposed sign is a replacement of an existing sign which is similarly situated, and the right-of-way of Mossrock Drive in the area of the subject property is virtually indistinguishable from the right-of-way of Loop 410. Additionally, the applicant will be replacing an existing expressway grade sign with another expressway sign.** Granting the variance will not substantially conflict with the stated purposes of this article. **The requested setback variances do not appear to conflict with any of the stated purposes of Chapter 28.**" The motion was seconded by **Mr. Camargo.**

AYES: Quijano, Camargo, Rogers, Martinez, Rodriguez, Zuniga, Cruz, Britton, Velasquez, Neff, Garcia
NAYS: None

THE VARIANCE WAS GRANTED.

CASE NO. A-14-079

Applicant – Eduardo Pelayo
Lots 1 & 2, Block 7, NCB 8317
4503 Mascota
Zoned: "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District

The applicant is requesting a 5-foot variance from the minimum 5-foot side yard setback to allow an elevated deck structure on the property line.

Margaret Pahl, Senior Planner, presented background and staff's recommendation of denial of the requested variance. She indicated 27 notices were mailed, one was returned in favor and none were returned in opposition.

Eduardo Pelayo, applicant, stated he was not aware the deck had to be built away from the fence. He also stated there is no opposition of the deck from the neighbors. He further stated

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-14-079 closed.

MOTION

A motion was made by **Mr. Martinez**. "Re Appeal No. **A-14-079**, variance application for a **5-foot variance from the minimum 5-foot side yard setback, as detailed in Table 35-310-1 to allow an elevated deck structure on the property line,** subject property description **Lots 1 & 2, Block 7, NCB 8317,** situated at **4503 Mascota**, applicant being **Eduardo Pelayo.** "I move that the Board of Adjustment grant the applicant's request regarding Appeal No. **A-14-079**, 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 public interest is described as the general health, safety and welfare of the community at large. Building setback lines are adopted by building codes and zoning ordinances as a way to ensure space for fire separation and on-going maintenance without trespass. Therefore in this situation without any space to provide maintenance, the variance would be contrary to the public interest.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that

literal enforcement of the ordinance would result in the owner having to dismantle the decking and potentially relocate it to the center of the lot. The Board will have to determine if denying this request results in an unnecessary hardship. The spirit of the ordinance is observed and substantial justice is done in that **for each requested variance, the Board must determine the "spirit" of the ordinance as contrasted with the "strict letter" of the requirement. In this case, the applicant is requesting approval to allow the pool and deck to remain on the shared property line with their neighbor.** 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. 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. 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 applicant describes his property as having unique physical characteristics, however it is a rectangular lot with over 7,000 square feet. Had the applicant installed the pool in the center of the rear yard with the decking located 5 feet from the property line, a variance would not be necessary.**" The motion was seconded by **Mr. Rodriguez.**

The motion is to accept Mr. Velasquez's friendly amendment to the original motion.

AYES: Velasquez, Britton, Cruz, Camargo, Neff, Garcia, Rodriguez, Rogers
NAYS: Zuniga, Martinez, Quijano

THE MOTION PASSES.

Mr. Velasquez made an amendment to approve a 1-foot variance to allow a 2-foot setback for the accessory deck. The motion was seconded by Mr. Camargo.

AYES: Rodriguez, Camargo, Cruz, Britton, Velasquez, Neff, Garcia, Rogers, Quijano
NAYS: Martinez, Zuniga

THE VARIANCE WAS GRANTED.

Board members recessed for ten minutes.

CASE NO. A-14-081

Applicant – Juan R Cervantes
Lots 45 & 46, Block 11, NCB 11331
427 Guanajuato Street
Zoned: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District

The applicant is requesting a 15-foot variance from the 20-foot rear yard setback to allow a structure 5 feet from the rear property line.

Tony Felts, Senior Planner, presented background and staff's recommendation of denial of the requested variance. He indicated 32 notices were mailed, 3 were returned in favor and 2 were returned in opposition.

Juan Cervantes, applicant, stated he started with a garage. He also stated he has been staying taxes on this property. He further stated he currently has no future plans to add on to the existing structure but will inquire about permits for a concrete driveway.

The following citizens appeared to speak:

George Cervantes, 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-14-081 closed.

MOTION

A motion was made by **Mr. Camargo**. "I would move that in Case **A-14-081**, the request of **Juan R. Cervantes,** at **427 Guanajuato Street,** on property legally described as **Lots 45 & 46, Block 11, NCB 11331,** recommend the approval of a **15-foot variance from the 20-foot rear yard setback to allow a structure that has already been constructed 5 feet from the rear property line.** Specifically, we find that such variance will not be contrary to the public interest in that **a slight majority of the neighbors that were notified about the case did not oppose this request. Furthermore the structure, as stated by Mr. Cervantes, has existed for a period of seven years has gone unnoticed and without any complaints. It wasn't until they did the right thing to go to CPS to get electrical connection, that it was determined that the structure shouldn't have been there for seven years.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **in my opinion the hardship is that this structure which from the photos we saw is a very nice structure that has been maintained for seven years is already constructed. The applicants will have to go through the process of obtaining permits for everything that's in the property for example plumbing, electrical, mechanical, and building codes.** The spirit of the ordinance is observed and substantial justice is done in that **again it is this member's opinion in that I feel that justice would be done for the fact that the structure has existed for a period of seven years on which taxes have been paid for and there have been no negative ramifications from its existence.** 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 variance will not authorize the operation of a use other than those permitted on the zoning classification. It is a single family residence. It would continue to be so that issue is not a violation.** 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 has been stated by the applicant that in the area there are other grandpa housing in the area which basically means second homes at rear of the properties.** 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 very unique in that he went this far in constructing the house with all of the things that go with it without being cited or being complained on. That is the only uniqueness that I find because otherwise had he gone through the permitting process he more than likely would have been able to obtain those permits with the appropriate setbacks and I feel that this variance should be granted."** The motion was seconded by **Mr. Martinez.**

AYES: Camargo, Martinez, Rodriguez, Zuniga, Cruz, Britton, Velasquez, Neff, Quijano, Garcia, Rogers
NAYS: None

THE VARIANCE WAS GRANTED.

CASE NO. A-14-083

Applicant – Ralph Coronado
Lot 4, Block 11, NCB 12357
111 One Oak
Zoned: "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District

The applicant is requesting 1) a 12.5-foot variance from the minimum 20-foot rear yard setback to allow a covered patio on the property line; and 2) a 5-foot variance from the minimum 5-foot side yard setback to allow a carport on the side property line.

Margaret Pahl, Senior Planner, presented background and staff's recommendation of approval of the requested variance. She indicated 16 notices were mailed, 2 were returned in favor and none were returned in opposition.

Ralph Coronado, applicant, stated the carport would provide protection for his vehicle. He also stated he was not aware of obtaining permits for the construction of the carport.

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-14-083 closed.

MOTION

A motion was made by **Mr. Quijano**. "Re Appeal No. **A-14-083**, variance application to **1) a 12.5-foot variance from the minimum 20-foot rear yard setback to allow a covered patio on the property line and 2) a 5-foot variance from the minimum 5-foot side yard setback to allow a carport on the side property line,** subject property description **Lot 4, Block 7, NCB 12357,** situated at **111 One Oak**, applicant being **Ralph Coronado.** "I move that the Board of Adjustment grant the applicant's request regarding Appeal No. **A-14-083**, 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 public interest in this case is represented by minimum setbacks established to ensure that activities on individual properties do not impact the rights of a neighboring property owner and allow for property maintenance. In this case, with rights of way abutting each encroachment, the variance would not be contrary to the public interest.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the applicant's setback encroachments do not abut private property, nor impact the rights of neighboring owners.** The spirit of the ordinance is observed and substantial justice is done in that **the variance request may be considered consistent with the spirit of the ordinance because the purpose of setbacks is to allow air, light and access, none of which these two structures are interrupting.** 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 a use on the subject property other than those specifically permitted in the "R-5 AHOD" zoning district.** 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 variances will likely not alter the characteristics of the district since no homes are adjacent to either of the encroachments.** 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 condition that exists on the property is that the house is located on a corner lot with an alley behind it. The alley provides separation from the patio and the residential divided collector street beside the carport has no homes fronting it.**" The motion was seconded by **Ms. Cruz.**

AYES: Quijano, Cruz, Camargo, Martinez, Rodriguez, Zuniga, Britton, Velasquez, Neff, Garcia, Rogers
NAYS: None

THE VARIANCE WAS GRANTED.

Approval of the Minutes

The July 21, 2014 minutes were approved with all members voting in the affirmative

There being no further discussion, meeting adjourned at 3:41 pm.

APPROVED BY: _____ OR _____
Andrew Ozuna, Chairman Mary Rogers, Vice-Chair

DATE: 8/18/14

ATTESTED BY: _____ DATE: 8-18-14
Executive Secretary