

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
December 1, 2014**

Members Present:

Andrew Ozuna
Mary Rogers
Frank Quijano
Alan Neff
George Britton
Maria Cruz
Jesse Zuniga
Roger Martinez
Gene Camargo
Jeffrey Finlay
Christopher Garcia

Staff:

Catherine Hernandez, Planning Manager
Margaret Pahl, Senior Planner
Logan Sparrow, Planner
Paul Wendland, City Attorney

Call to Order

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

Mr. Ozuna, Chair, called the meeting to order and called roll of the applicants for each case.

CASE NO. A-15-010

Applicant – Rosa Escobedo
Lots 1 & 2, Block E, NCB 6022
1700 El Paso Street
Zoned: “R-4 AHOD” Residential Single-Family Airport Hazard Overlay District”

The applicant is requesting a renewal to a special exception to allow a one operator beauty/barber shop within a single-family home as described in Section 35-399.01.

Logan Sparrow, Planner, presented background and staff’s recommendation of approval of the requested variance. He indicated 47 notices were mailed, 2 were returned in favor and none were returned in opposition and no response from the Southwest Community Association.

Rosa Escobedo, applicant, stated her clientele are only scheduled by appointment. She also stated she enjoy working out of her home.

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-15-010 closed.

MOTION

A motion was made by **Mr. Camargo**. I would that in case A-15-010, the applicant being **Rosa Escobedo**, be granted a special exception for a **renewal to a special exception to allow a one operator beauty/barber shop within a single-family home as described in Section 35-399.01 for a period of four years and the staff has noted that nothing about the home distinguishes from the others in the community**. 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 has fulfilled all the requirements of the previously approved special exception for the beauty shop, therefore it is felt is not against the public interest**. The public welfare and convenience will be substantially served in that **the applicant has already constructed a beauty shop within her home and this is a request for a renewal of the special exception and from the slides that have been shown the shop does not distinguish this home from any other homes in the surrounding area**. The neighboring property will not be substantially injured by such proposed use in that **the special exception is not likely to negatively impact adjacent property owners because of the home character and those surrounding it**. 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 properties are primarily single-family residences** The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district in that **the primarily use of the dwelling remains a single family home and a one operator beauty shop will have restricted hours which are Thursday through Saturday from 8:30 am until 6:30 pm**. The motion was seconded by **Ms. Cruz**.

AYES: Camargo, Cruz, Quijano, Neff, Garcia, Britton, Zuniga, Finlay, Martinez, Rogers, Ozuna

NAYS: None

THE SPECIAL EXCEPTION WAS GRANTED.

CASE NO. A-15-018

Applicant – Brown & Ortiz, PC

Lot 5, NCB 18337

21531 IH 10 West

Zoned: “C-2 CD GC-1 MSAO-1 MLOD-1” Commercial Hill Country Gateway Corridor Military Sound Attenuation, Military Lighting Overlay District with a Conditional Use for Motor Vehicle Sales

The applicant is requesting an 80 foot variance from the minimum 200 foot spacing requirement, as described in the Hill Country Gateway Corridor Overlay District Section 35-339.01, to allow 2 signs that are 120 feet apart.

Margaret Pahl, Senior Planner, presented background and staff's recommendation of approval of the requested variance. She indicated 11 notices were mailed, none were returned in favor and none were returned in opposition and no response from the Friends of Friedrich Wilderness Park.

James Griffin, representative, stated they would like to keep the existing sign in the current place. He also stated the variance would also eliminate the destruction of heritage trees on the property.

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-15-018 closed.

MOTION

A motion was made by **Mr. Quijano**. Re Appeal No. **A-15-018**, variance for a an **80 foot variance from the minimum 200 foot spacing requirement, as described in the Hill Country Gateway Corridor Overlay District Section 35-339.01, to allow 2 signs that are 120 feet apart**, located at **21531 IH 10 West**, subject property description **Lot 5, NCB 18337**, applicant **Brown and Ortiz, P.C.** I move that the Board of Adjustment grant the applicant's request regarding Appeal No. **A-15-018**, 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 defined as the general health, safety, and welfare of the public. In this case, the applicant is requesting an 80 foot reduction in the minimum spacing required between signs to allow a second free-standing pole sign. The location was chosen to preserve numerous heritage trees. This landscaping along the frontage will mitigate the impact of the spacing, making the variance not contrary to public interest.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **because of the width of the dealership area, literal enforcement of the ordinance spacing would cause an unnecessary hardship by requiring the removal of heritage trees.** The spirit of the ordinance is observed and substantial justice is done in that **the spirit of the ordinance is observed by spacing signs to reduce visual clutter. Landscaping assists in mitigating the impact of potential sign clutter. In this case, an existing pole sign on the southern tip of the site will be separated from the new sign by 120 feet of spacing and the heritage trees located 200 feet away can remain, observing the spirit of the ordinance.** 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 "C-2 CD GC-1 MSAO-1 MLOD-1" Commercial Hill Country Gateway Corridor Overlay Military Sound Attenuation Overlay Military Lighting Overlay 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 variance is not likely to adversely affect adjacent property owners or alter the essential character of the district.** 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 owner is the location of numerous heritage trees along the frontage of the 14 acre parcel. The site design was selected to preserve the largest number of these trees. The proposed variance will allow necessary visibility and the preservation of large trees.** The motion was seconded by Ms. Rogers.

AYES: Quijano, Rogers, Neff, Garcia, Britton, Cruz, Zuniga, Finlay, Martinez, Camargo, Ozuna

NAYS: None

THE VARIANCE WAS GRANTED.

CASE NO. A-15-012

Applicant – Joseph Miraglilo
Lot 1, Block 1, NCB 13360
3635 Greenleaf Drive
Zoned: “R-5 AHOD” Residential Single Family Airport Hazard Overlay District

The applicant is requesting a two foot variance from the six foot maximum fence height, as described in Section 35-514 (d), to allow construction of an eight foot tall wood privacy fence in the rear and side yards of the property.

Margaret Pahl, Senior Planner, presented background and staff’s recommendation of approval of the requested variance. She indicated 17 notices were mailed, 3 were returned in favor and none were returned in opposition.

Joseph Miraglilo, applicant, stated he is replacing the existing fence but would like to install an eight foot fence. He also stated the fence would provide privacy and sound barrier for his property. He further stated because of the topography on his property his rear yard fence is more like a four foot fence.

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-15-012 closed.

MOTION

A motion was made by **Mr. Neff**. Re Appeal No. **A-15-012**, special exception for a **two foot variance from the six foot maximum fence height, as described in Section 35-514 (d), to allow construction of an eight foot tall wood privacy fence in the rear and side yards of the**

property, located at **3635 Greenleaf Drive**, subject property description **Lot 1, Block 1, NCB 13360**, applicant **Joseph Miraglilo**. I move that the Board of Adjustment grant the applicant's request regarding Appeal No. **A-15-012**, 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 **in this case the applicant is requesting additional fence height due to the property's location adjacent to a freeway. Therefore, the variance is not contrary to the public interest.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **there are specific conditions that warrant consideration for this property. Sound walls were installed for neighboring houses, but were discontinued at the property line. A bus shelter was installed instead. Without the variance, this owner would be deprived of a similar level of enjoyment shared by others on the block, resulting in an unnecessary hardship.** The spirit of the ordinance is observed and substantial justice is done in that **the spirit of the ordinance will be observed by allowing additional fence height for this unique location.** 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" Residential Single-Family Airport Hazard Overlay 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 variance is not likely to adversely affect adjacent property owners or alter the essential character of the district. The applicant is proposing to stop the fencing at the rear wall of the existing home.** 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 unique circumstances existing on this property are its location at the corner of a local street and the freeway access road. As a result of this location, a bus shelter was installed and the sound wall was discontinued. The access road is also elevated above the subject property, further aggravating the sound impacts from the freeway.** The motion was seconded by **Mr. Martinez.**

AYES: Neff, Martinez, Quijano, Garcia, Britton, Cruz, Zuniga, Finlay, Martinez, Camargo, Rogers, Ozuna

NAYS: None

THE VARIANCE WAS GRANTED.

CASE NO. A-15-017

Applicant – Frank Ruttenberg
Lot 2, Block 1, NCB 987
1311 S Alamo Street

Zoned: "H RM-4 RIO-4 AHOD" Residential Mixed King William Historic River Improvement Overlay Airport Hazard Overlay District

The applicant is requesting a 2 foot variance from the minimum 10 foot required rear setback, as described in Table 35-310-1, to allow an addition to an existing home 8 feet from the rear property.

Margaret Pahl, Senior Planner, presented background and staff's recommendation of approval of the requested variance. She indicated 23 notices were mailed, one was returned in favor and none were returned in opposition and the King William Neighborhood Association confirmed by phone that they are not in opposition.

John Larcade, representative, stated the current placement of the addition would allow for the property owner to have a reasonable and easy access to his driveway.

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-15-017 closed.

MOTION

A motion was made by **Mr. Quijano**. Re Appeal No. **A-15-017**, variance application for a **2 foot variance from the minimum 10 foot required rear setback, as described in Table 35-310-1, to allow an addition to an existing home 8 feet from the rear property line**, subject property description **Lot 2, Block 1, NCB 987**, situated at **1311 S Alamo Street**, applicant being **Frank Ruttenberg**. I move that the Board of Adjustment grant the applicant's request regarding Appeal No. **A-15-017**, 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 defined as the general health, safety, and welfare of the public. In this case, the applicant is requesting a 2 foot reduction in the minimum 10 foot rear yard setback to allow a 253 square foot second story addition. The open air carport below mitigates the potential impact of the reduced setback, making this request not contrary to the public interest.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **when the home was constructed, the setback now identified as the rear yard had then been designated as a side yard. A subdivision plat recorded afterward separated the structure from its previous frontage and address on Geunther, making Alamo its front yard. This situation creates a special condition that makes literal enforcement an unnecessary hardship.** The spirit of the ordinance is observed and substantial justice is done in that **in this case, the minimum 10 foot setback was established to provide some separation, while recognizing the density of historic neighborhoods. According to the applicant, there will still be 15 feet between the proposed addition and the closest structure on the neighboring lot.** 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 “H RM-4 RIO-4 AHOD” Historic Residential Mixed King William River Improvement Overlay Airport Hazard Overlay 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 variance is not likely to adversely affect adjacent property owners or alter the essential character of the district.** As noted by the Office of Historic Preservation, **the addition will be concealed from view by the dense vegetation along the frontage.** 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 unique circumstances existing on this property are that a subdivision plat was recorded after the construction of the home, altering its frontage and thus its rear yard. In addition, the shape of the lot is almost triangular, with the width of the lot decreasing as it approaches the river. The addition, proposed on the widest portion of the lot, is still carefully sited so as to allow vehicular movement on the parcel.** The motion was seconded by Ms. Rogers.

AYES: Quijano, Rogers, Neff, Garcia, Britton, Cruz, Zuniga, Finlay, Martinez, Camargo, Ozuna

NAYS: None

THE VARIANCE WAS GRANTED.

Approval of the Minutes

The November 17, 2014 minutes were approved as amended with all members voting in the affirmative.
