

**BOARD OF ADJUSTMENT  
OFFICIAL MINUTES  
December 15, 2014**

Members Present:

Andrew Ozuna  
Mary Rogers  
Frank Quijano  
George Britton  
Maria Cruz  
Jesse Zuniga  
John Kuderer  
Roger Martinez  
Gene Camargo  
Paul Klein  
Christopher Garcia

Staff:

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

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**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.

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**CASE NO. A-14-077**

Applicant – Jill Giles

Lot 2, Block 2, NCB 14164

610 Avenue A

Zoned: “HL IDZ RIO-2 AHOD” Historic Landmark Infill Development Zone River Improvement Overlay Airport Hazard Overlay District

The applicant is requesting a 5-foot variance from the maximum 6-foot height, as described in Section 35-678, to allow a freestanding pole sign 11 feet in height, encroaching into the Avenue A right of way.

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 Tobin Hill Community Association.

Jill Giles, applicant, stated the six feet has low visibility due to the traffic and is prone to vandalism. She also 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-14-077 closed.

**MOTION**

A motion was made by **Mr. Quijano**. Re Appeal No. **A-14-077**, variance application for a **5-foot variance from the maximum 6-foot height, as described in Section 35-678, to allow a freestanding pole sign 11 feet in height, encroaching into the Avenue A right of way**, subject property description the **Lot 2, Block 2, NCB 14164**, situated at **610 Avenue A**, applicant being **Jill Giles**. I move that the Board of Adjustment grant the applicant's request regarding Appeal No. **A-14-077**, 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 at large. The applicant states that the variance places the bottom of the sign well above the head height of the pedestrian, and out of the clear vision area for cars exiting the driveway.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that the **literal enforcement of the regulations would require the owner to install the 6 foot high pole sign flush up against the open porch, blocking light and air of those eating on the porch. The additional height and location within the landscaped bulb-out makes the sign visible to people from either end of the block.** The spirit of the ordinance is observed and substantial justice is done in that **in this case, the applicant asserts that the spirit of the ordinance is preserved by the historic character of the sign itself, complimenting the village scale of the neighborhood.** 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 "HL IDZ RIO-2 AHOD" Historic Landmark Infill Development Zone 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 proposed variance will allow a freestanding pole sign on a block of mostly residential land uses and very few other signs. The attractive sign with a carved wooden pig was approved by the HDRC and does not alter the 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 applicant states that the need for the variance was created by the pedestrian easement on their front property area. A 6 foot tall sign could easily be vandalized and block visibility of vehicular movements within the cut-back parking area.** The motion was seconded by **Mr. Klein**.

**AYES: Quijano, Klein, Garcia, Britton, Cruz, Zuniga, Kuderer, Martinez, Camargo, Rogers, Ozuna**

**NAYS: None**

**THE VARIANCE WAS GRANTED**

**CASE NO. A-15-023**

Applicant – Aetna Sign Group  
Lot 5, Block 10, NCB 17728  
17614 Bulverde Road  
Zoned: “C-2 PC-1 ERZD” Commercial Bulverde Road Preservation Corridor Overlay Edwards Aquifer Recharge Zone District

The applicant is requesting a 50-foot variance from the minimum 200 foot spacing, as described in Section 35-339.01 of the Unified Development Code, to allow a sign 150 feet from another sign, and amend a previously approved master sign plan.

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.

Andrew Perez, Sign Inspector, stated the sign currently have 200 feet of spacing due the Bulverde Road Corridor.

Larry Gottsman, applicant, 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-15-023 closed.

**MOTION**

A motion was made by **Mr. Quijano**. Re Appeal No. **A-15-023**, variance application for a **50-foot variance from the minimum 200 foot spacing, as described in Section 35- 339.01 of the Unified Development Code, to allow a sign 150 feet from another sign, and amend a previously approved master sign plan**, subject property description the **Lot 5, Block 10, NCB 17728**, situated at **17614 Bulverde Road**, applicant being **Aetna Sign Group**. I move that the Board of Adjustment grant the applicant’s request regarding Appeal No. **A-15-023**, 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 **a sign of this size needs flexibility as tenants are**

identified, making this variance request in the public interest. A master sign plan that was submitted and approved back in 2008 has been modified or the site has not been developed in accordance with thoughts that accompanied a sign master plan back in 2008 thus necessitating this request for sign variance. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **there has already been the passage of the sign master plan in 2008.** The property owner has already agreed to forego additional height which would be allowed for property of this size along with a reduction in sign area agreed to a reduction in sign area and height to allow flexibility in sign location. No additional signage is being requested with this application and none is being approved. In addition, the site is elevated above the street particularly on the 1604 frontage road and Bulverde Road making the signage visibility more important. The spirit of the ordinance is observed and substantial justice is done in that **in this case the spirit of the ordinance is preserved by honoring the approved sign master plan and allowing the relocation of one of the signs.** 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 on the subject property other than those specifically permitted in the "C-2 PC-1 ERZD" Commercial Bulverde Road Preservation Corridor Overlay Edwards Aquifer Recharge Zone 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 proposed variance will allow an additional sign on Bulverde, but the other signs approved on Bulverde are spaced over 200 feet apart. With the site's proximity to Loop 1604, and commercial zoning, signs will assist the travelers in locating a business. Additionally there are no additional signs proposed under this variance request.** 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 relocation of the sign as proposed today under this request is now prompted by redevelopment thoughts for this particular piece of property which have changed since the master sign plan was approved in 2008. The previous plan envisioned an anchored tenant and a specific location that is no changed and prompted the variance today.** The motion was seconded by Mr. Klein.

**AYES: Quijano, Klein, Garcia, Britton, Cruz, Zuniga, Kuderer, Martinez, Camargo, Rogers, Ozuna**

**NAYS: None**

**THE VARIANCE WAS GRANTED.**

**CASE NO. A-15-025**

Applicant – James Dacy  
Lot 5, Block 1, NCB 14863  
11010 IH 10 W  
Zoned: "C-3" General Commercial District

The applicant is requesting a renewal to a 23 foot 9 inch variance from the 50 foot height maximum as described in Section 28-239 to allow a single-tenant expressway sign 73 feet 9 inches tall in the Urban Corridor.

Logan Sparrow, Planner, presented background and staff's recommendation of approval of the requested variance. He indicated 11 notices were mailed, none were returned in favor and none were returned in opposition.

James Dacy, applicant, stated Holiday Day has its specific specifications in regards to the signs and the current sign cannot be refaced. He also stated if the sign would be dropped to fifty feet, it would not be visible coming westbound on IH 10. He further stated they are reducing the amount of square footage of the sign.

**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-15-025 closed.

#### **MOTION**

A motion was made by **Ms. Rogers**. Re Appeal No. **A-15-025**, variance application for a **23 foot 9 inch variance from the 50 foot height maximum as described in Section 28-239 to allow a single-tenant expressway sign 73 feet 9 inches tall in the Urban Corridor**, subject property description **Lot 5, Block 1, NCB 14863**, applicant being **James Dacy**, located at **11010 IH 10 W**. I move that the Board of Adjustment grant the applicant's request regarding Appeal No. **A-15-025**, 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. 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 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. After seeking one or more of the findings set forth in (1) or (2), 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. **The applicants requested signage would allow the owner of the property to advertise his business, a privilege enjoyed by others along the street which the exit from the expressway being so far from it would allow people to see the sign in an adequate time to get off the expressway which is very busy. Should the applicant's request be denied, he would be the only business along that section of frontage to have their sign obscured by another. As much as this hotel was newly renovated, remodeled, and raised in height and with the number of signs along there, it would be necessary. Also because it needs to be in accordance with Holiday Inns design specification, it is necessary to have at that height. As such, the requested variance serves to provide the same privilege enjoyed by others in that area.** Granting the variance will not have a substantially adverse impact upon

neighboring properties. It is unlikely that neighboring property owners will be negatively affected by the proposed signage. As a matter of fact it would probably help because people stopping at the Holiday Express Inn will need to dine in at the restaurants on either side. The applicant is requesting the variances such that the property can be marketed to those travelling along Interstate 10 searching for a hotel and in that particular spot is very familiar and I believe that it is the only hotel there. Granting the variance will not substantially conflict with the stated purposes of this article. The legislative purposes of the adopted sign regulations are to provide minimum standards to protect the general public by regulating the design, construction, location, use and maintenance of outdoor advertising signs. The owner is proposing the variances to make the property more visible which is for the benefit of the citizen rate coming along there, and to maintain longstanding, active commercial use of the property. It is now commercial and has been such for quite a while. As such, the requested variance will not come into conflict with the stated purposes of the article. The motion was seconded by Ms. Cruz.

**AYES: Rogers, Cruz, Quijano, Klein, Garcia, Britton, Cruz, Zuniga, Kuderer, Martinez, Ozuna**

**NAYS: Camargo**

**THE VARIANCE WAS GRANTED.**

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**CASE NO. A-15-015**

Applicant – Gilberto Ramirez  
Lot 101, Block 2, NCB 11214  
1825 Palo Alto Road  
Zoned: “C-3 AHOD” General Commercial Airport Hazard Overlay

The applicant is requesting 1) a 25 foot variance from the 30 foot rear setback requirement as described in Section 35-310.01 to allow an accessory commercial structure five feet from the rear property line and 2) a request for the elimination of the required 15 foot bufferyard between a commercial and residential property.

Logan Sparrow, Planner, presented background and staff’s recommendation of denial of the requested variances. He indicated 19 notices were mailed, none were returned in favor and none were returned in opposition.

Gilbert Ramirez, applicant, stated the Fire Marshal informed them that a six foot high fence would need to come into effect for the tire storage. He also stated he would not to store the tires in second bay where the inspection sticker would be done. He further stated if he would move the accessory structure to the thirty foot setback, it would bring it up close to the fence line would diminish the room for vehicle storage.

**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-15-015 closed.

## MOTION

A motion was made by **Mr. Camargo**. I would move that in Case No. **A-15-015**, the applicant being **Gilberto Ramirez**, on property located at **1825 Palo Alto Road**, also known as **Lot 101, Block 2, NCB 11214**, be granted a **10-foot variance and allow this accessory structure to be constructed 20 foot from the rear property line which should be in line with the major building that is in existence**. Specifically, we find that such variance will not be contrary to the public interest in that **unfortunately there was in response from the surrounding area so I could only assume that there was no strong opposition from the adjacent property owner**. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **a literal enforcement code would allow the applicant to violate the setback requirements**. The existing major building is either nonconforming or somehow was constructed with the setback. In this member's opinion it is felt that the smaller accessory building placed at an equal distance to the rear property line as to that which is existing, would not be more detrimental to the surrounding area. In addition to that the code requires that there be a buffer area between the commercial area and the adjacent residential. I think that offer some relief to the adjacent property owner although they did not object. This is an area that I am familiar with and it's an area that needs all the help that they can receive through the city ordinances. It is an older neighborhood and any city regulations that should be complied with would certainly be beneficial to this particular neighborhood. The spirit of the ordinance is observed and substantial justice is done in that **the spirit of the ordinance would be observed by compromising the location of this accessory building on this existing commercial property**. 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 would not authorize the use that is not currently allowed in the current zoning classification which is a "C-3 AHOD" General Commercial 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 **it is felt with the 20-foot setback and the buffer area will be required offer some relief to the adjacent residential property**. 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 is no unique circumstances in this case. The building was built without a permit and obviously in violation of city regulations but the fact that there is a thriving commercial use on this property on Palo Alto, which is a major thoroughfare, it is felt that the property owner should be given some relief**. The motion was seconded by **Mr. Kuderer**.

**AYES: Camargo, Kuderer, Klein, Garcia, Cruz, Zuniga, Martinez, Rogers, Ozuna**

**NAYS: Britton, Quijano**

**THE VARIANCE WAS GRANTED.**

**Board members recessed for five minutes.**

**CASE NO. A-15-020**

Applicant – Armando Torres Jr.

Lot 4, Block 4, NCB 14146

2914 Dall Trail

Zoned: “NP-8 NCD-3 AHOD” Neighborhood Preservation Ingram Hills Neighborhood Conservation Airport Hazard Overlay District

The applicant is requesting a two and a half foot variance from four foot maximum predominately open fence height as described in Section 35-514 to allow a wrought iron fence that is up to six and a half feet tall in the front yard.

Logan Sparrow, Planner, presented background and staff’s recommendation of approval of the requested variances. He indicated 32 notices were mailed, 4 were returned in favor and one was returned in opposition and no response from the Ingram Hills Neighborhood Association.

Armando Torres, applicant, stated the fence would provide security and protected of their properties. He also stated there have been vandalism and several burglaries in the area. He further stated

**The following citizens appeared to speak:**

Gilbert Weaver, 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-15-020 closed.

**MOTION**

A motion was made by **Ms. Cruz**. Re Appeal No. **A-15-020**, variance application for a **two and a half foot variance from four foot maximum predominately open fence height as described in Section 35-514 to allow a wrought iron fence that is up to six and a half feet tall in the front yard**, subject property description the **Lot 4, Block 4, NCB 14146**, situated at **2914 Dall Trail**, applicant being **Armando Torres Jr.** I move that the Board of Adjustment grant the applicant’s request regarding Appeal No. **A-15-020**, 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 public interest is represented by fence height limitations to protect the character of the community, while still providing protection for residents. The proposed**

fencing is not out of character with the community. As described the applicant did state that he has been broken into his home quite recently and has had several instances in the past. As a result of criminal activity on the neighborhood, a taller fence is required, especially since his wife is having some health issues. The requested variance is not contrary to the public interest as it serves to protect the home from crime and is in harmony with the character of the community. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that a literal enforcement of the code would require that the applicant remove two and a half feet of the current fencing to come into compliance with the four foot maximum fence height, as described in Section 35-514. Because of criminal activity in the neighborhood, a strict enforcement of the code would result in unnecessary hardship as the existing fence matches the character of the community and serves to protect the applicant's home and family. The spirit of the ordinance is observed and substantial justice is done in that the spirit of the ordinance will be observed as the safety and welfare of the residential property will be protected while respecting the character of neighboring properties. The applicant states that they have been the victim of criminal activity multiple times and the fence serves to mitigate this problem. Granting the applicants request respects the spirit of the ordinance and substantial justice will be done. 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 variances will not authorize the operation of a use on the subject property other than those specifically permitted in the "NP-8 NCD-3 AHOD" Neighborhood Preservation Ingram Hills Neighborhood Conservation 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 harm adjacent, conforming properties. The existing fence matches the character of the community and serves to protect the applicant's 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 present in this case are the abnormally high crime rates in the community. Allowing the applicant to protect their home is unlikely to harm adjacent properties. The problem is not merely financial in nature. The motion was seconded by Mr. Quijano.

**AYES:** Cruz, Quijano, Klein, Garcia, Britton, Zuniga, Kuderer, Martinez, Camargo, Rogers, Ozuna

**NAYS:** None

**THE VARIANCE WAS GRANTED.**

**CASE NO. A-15-021**

Applicant – Maria Calderon  
Lot 23, Block 3, NCB 13468  
406 NW 39<sup>th</sup> Street

Zoned: "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District

The applicant is requesting a two foot variance to the four foot maximum as described in Section 35-514 to allow a six foot tall predominately open fence in the front yard.

Logan Sparrow, Planner, presented background and staff's recommendation of approval of the requested variance. He indicated 24 notices were mailed, none were returned in favor and one was returned in opposition.

Maria Calderon, applicant, stated the fence would provide security and protection of her property. She also stated there have been numerous trespassers on her property and have had attempted burglaries 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-15-021 closed.

**MOTION**

A motion was made by **Mr. Garcia**. Re Appeal No. **A-15-021**, variance application for a **two foot variance to the four foot maximum as described in Section 35-514 to allow a six foot tall predominately open fence in the front yard**, subject property description the **Lot 23, Block 3, NCB 13468**, situated at **406 NW 39th Street**, applicant being **Maria Calderon**. I move that the Board of Adjustment grant the applicant's request regarding Appeal No. **A-15-021**, 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 public interest is represented by fence height limitations to protect the character of the community, while still providing protection for residents. The proposed fencing is not out of character with the community and because of criminal activity in the neighborhood, a taller fence is required to protect the home. As such, the requested 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 **a literal enforcement of the code would require that the applicant remove two feet of the proposed fence to come into compliance with the four foot maximum fence height, as described in Section 35-514. Because of criminal activity in the neighborhood, a strict enforcement of the code would result in unnecessary hardship as the existing fence matches the character of the community and serves to protect the applicant's home and family** The spirit of the ordinance is observed and substantial justice is done in that **the spirit of the ordinance will be observed as the safety and welfare of the residential property will be protected while respecting the character of neighboring properties. The proposed wrought iron fencing will be visually appealing and will add to the character of the community. Per the applicant, the community experiences high crime rates and the fence serves to mitigate**

**this problem. Granting the applicants request respects the spirit of the ordinance and substantial justice will be done.** 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 variances will not authorize the operation of a use on the subject property other than those specifically permitted in the “R-6 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 harm adjacent, conforming properties. The six foot tall wrought iron fence replaces a four foot tall chain link fence. This change provides added security for the applicant and contributes to a more visually appealing design.** 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 present in this case are the abnormally high crime rates in the community and the applicant’s home falling victim to theft. Allowing the applicant to protect their home is unlikely to harm adjacent properties. The unique circumstances present in this case are not the fault of the applicant and the problem is not merely financial in nature.** The motion was seconded by **Mr. Britton.**

**AYES: Garcia, Britton, Quijano, Klein, Cruz, Zuniga, Rogers, Ozuna**  
**NAYS: Kuderer, Martinez, Camargo**

**THE VARIANCE WAS NOT GRANTED.**

**Mr. Zuniga departed at 4:39 p.m.**

**CASE NO. A-15-024**

Applicant – Daniel Alvarado  
 Lot 28, Block 2, NCB 14459  
 1803 W Mally Boulevard  
 Zoned: “R-4 AHOD” Residential Single-Family Airport Hazard Overlay District

The applicant is requesting a two foot variance to the four foot maximum fence height as described in Section 35-514 to allow a six foot tall predominately open fence in the front yard.

Logan Sparrow, Planner, presented background and staff’s recommendation of denial of the requested variance. He indicated 28 notices were mailed, one was returned in favor and none was returned in opposition.

Daniel Alvarado, applicant, stated the fence would provide security and protection for his family. He also stated they have been numerous trespassers who have stolen minor items from the property. He further stated there was an attempted burglary of his storage shed.

**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-15-024 closed.

**MOTION**

A motion was made by **Ms Rogers to continue Case A-15-024 until the next regularly scheduled meeting on January 12, 2015.** The motion was seconded by **Ms. Cruz.**

**AYES: Garcia, Britton, Quijano, Klein, Kuderer, Martinez, Camargo, Cruz, Rogers, Ozuna**

**NAYS: None**

**THE MOTION PASSES.**

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**CASE NO. A-15-019**

Applicant – Canda Corie Boldt & Frederick Hutt

Lot 16, Block 3, NCB 6526

811 Old Austin Road

Zoned: “R-4 NCD-6” Residential Single-Family Mahncke Park Neighborhood Conservation District

The applicant is requesting 1) a 36 foot variance from the minimum 36 foot garage setback; and 2) a variance from the requirement for a front sidewalk as specified in the Mahncke Park Neighborhood Conservation District Residential Design Standards, to allow a garage in front of the principal building and the elimination of a sidewalk.

Margaret Pahl, Planner, presented background and staff’s recommendation of denial of the requested variance. She indicated 17 notices were mailed, none were returned in favor and 1 was returned in opposition and no response from the Mahncke Park Neighborhood Association.

Canda Corie Boldt, applicant, stated there is a sewer line that is twenty feet from the rear property line. She also stated her property is one of the few properties in Mahncke Park that does not have an alleyway.

**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-15-019 closed.

**MOTION**

A motion was made by **Mr. Kuderer**. Re Appeal No. **A-15-019**, variance application for 1) a **36 foot variance from the minimum 36 foot garage setback; and 2) a variance from the requirement for a front sidewalk as specified in the Mahncke Park Neighborhood Conservation District Residential Design Standards, to allow a garage in front of the principal building and the elimination of a sidewalk**, subject property description **Lot 16, Block 3, NCB 6526**, situated at **811 Old Austin Road**, applicant being **Canda Corie Boldt & Frederick Hutt**. I move that the Board of Adjustment grant the applicant's request regarding Appeal No. **A-15-019**, 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 in protecting the health, safety and welfare of the public at large. Because of the relative isolation of this property, surrounded on 3 sides by large landowners, the variance would not be contrary to the public's interest.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the rear yard slope is in excess of 8% and exceeds the maximum slope for accessible parking. This unique property-related feature makes literal enforcement an unnecessary hardship.** The spirit of the ordinance is observed and substantial justice is done in that **the Board granted two previous variance requests, determining that the front-loaded garages were warranted in this unique location. While each case is unique, the same topography obstacles are present, and now 4 of the 5 houses on the block will have frontloaded garages.** 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-4 NCD-6" 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 applicant describes the isolated nature of the lot, in a block face of 5 lots, with no homes facing them from across the street and no homes behind them. Given the remaining homes each has a front-facing garage, this last infill parcel's variance will not alter the character of this block.** 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 states that it the unique location abutting the golf course that justifies the variance for the front garage. The isolated nature of this block, on a road that dead ends into a locked gate for Fort Sam Houston Military Post, creates a unique circumstance.** The motion was seconded by **Mr. Martinez**.

**AYES: Kuderer, Martinez, Quijano, Camargo, Klein, Garcia, Britton, Cruz, Rogers, Ozuna**

**NAYS: None**

**THE VARIANCE WAS GRANTED**

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**CASE NO. A-15-026**

Applicant – Ricardo Valdes  
Lots 33 & 34, Block 1, NCB 7312  
4607 and 4609 Howard Street  
Zoned: “R-5 AHOD” Residential Single-Family Airport Hazard Overlay District

The applicant is requesting 1) a 15 foot variance from the minimum 20 foot rear yard setback; and 2) a 4 foot variance from the minimum 5 foot side yard setback to allow an attached dwelling 5 feet from the rear property line, and 1 foot from the side property line on one of the two lots.

Margaret Pahl, Planner, presented background and staff’s recommendation of approval of the requested variance. She indicated 34 notices were mailed, none were returned in favor and 1 was returned in opposition and the Olmos Park Terrace Neighborhood Association is in opposition of 2-story homes in 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-15-026 closed.

**MOTION**

A motion was made by **Mr. Martinez**. Re Appeal No. **A-15-019**, variance application for **1) a 15 foot variance from the minimum 20 foot rear yard setback; and 2) a 4 foot variance from the minimum 5 foot side yard setback to allow an attached dwelling 5 feet from the rear property line, and 1 foot from the side property line on one of the two lots**, subject property description **Lots 33 & 34, Block 1, NCB 7312**, situated at **4607 and 4609 Howard Street**, applicant being **Ricardo Valdes**. I move that the Board of Adjustment grant the applicant’s request regarding Appeal No. **A-15-026**, 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 represented by the health, safety and welfare of the public at large. The addition of two new single-family homes on this street increases the surveillance and may encourage other investment, consistent with the public interest.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **according to the applicant, the unnecessary hardship is demolishing the existing structure, which encroaches into the setbacks. Other than the existing structure, all new construction will satisfy the minimum setbacks.** The spirit of the ordinance is observed and substantial justice is done in that **in this case, the spirit is observed by the new construction complying with the minimum setbacks.** 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 new construction visible from the public right of way will be consistent with the character of the surrounding area. The variances are located in the rear yard, behind the proposed construction. The area within 1 foot of the side property line is 26 feet in length and within the neighbor's rear yard setback.** 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 **if the variances are granted, the applicant will push the northern half of the attached dwelling back to allow more front yard in exchange for the reduced rear yard. This revised location provides offset for the other half of the dwelling, allowing it to have windows on both sides for that length.** The motion was seconded by **Mr. Camargo.**

**AYES: Martinez, Camargo, Quijano, Garcia, Britton, Cruz, Kuderer, Rogers, Klein, Ozuna**

**NAYS: None**

**THE VARIANCES WERE GRANTED.**



