

**BOARD OF ADJUSTMENT  
OFFICIAL MINUTES  
December 16, 2013**

Members Present:

Michael Gallagher  
Andrew Ozuna  
Frank Quijano  
Helen Dutmer  
George Briton  
Maria Cruz  
Jesse Zuniga  
Mary Rogers  
John Kuderer  
Gene Camargo  
Henry Rodriguez

Staff:

Catherine Hernandez, Planning Manager  
Margaret Pahl, Senior Planner  
Tony Felts, Planner  
Osniel Leon, Planner  
Matthew Taylor, Senior Planner  
Paul Wendland, City Attorney

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**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.

Mr. Quijano arrived at 1:07 p.m.

Mr. Quijano made a motion to move Case No A-14-016 to the end of the agenda. Mr. Rodriguez seconded the motion with all members voting in the affirmative.

Ms. Dutmer made a motion to move Case No A-14-015 to the beginning of the agenda. Mr. Quijano seconded the motion with all members voting in the affirmative.

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**CASE NO. A-14-015**

Applicant – Natividad D. Torrez  
Lot 29, Block 3, NCB 10637  
345 Longview Drive  
Zoned: "R-5" Residential Single-Family District

The applicant is requesting a special exception per Section 35-399.01 of the UDC to allow a one-operator beauty shop in a single family home.

Tony Felts, Planner, presented background and staff's recommendation of approval of the requested special exception for a period of two years. He indicated 26 notices were mailed, one was returned in favor and none were returned in opposition and the Eastwood Village Neighborhood Association is in opposition.

Natividad Torrez, applicant, stated she is requesting this special exception to work from home to be available for her children. She also stated she would have customers by appointment only. She further stated there is adequate parking for her customers.

**The following citizens appeared to speak:**

Linda Jackson, citizen, spoke in opposition.

Cecilia Galimore, 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-14-015 closed.

**MOTION**

A motion was made by **Ms. Rogers**. "Re Appeal No. **A-14-015**, request for a **special exception per Section 35-399.01 of the UDC to allow a one operator beauty shop in a single family home**, subject property description **Lot 29, Block 3, NCB 10637**, located at **345 Longview Drive**, applicant being **Natividad D. Torrez**. I move that the Board of Adjustment grant the applicants request regarding Appeal No. **A-14-015**, 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 **the requested special exception with the hours of operation recommended by staff would be for a period of twenty four months with hours of operation not to exceed 60 hours per week Mondays, Tuesdays, Wednesdays, Thursdays, Fridays, and Saturdays 9:00am until 7:00pm and will be in harmony with the spirit and purpose of the chapter in that the proposed one operator beauty salon will follow the specified criteria established in Section 35-399.01 of the Unified Development Code**. The public welfare and convenience will be substantially served in that **public welfare and convenience will be served with the granting of this request as it will provide a valuable and needed public service to the residents of the neighborhood and it will not negatively impact surrounding properties**. The neighboring property will not be substantially injured by such proposed use in that **the subject property will be primarily used as a single-family residence. The beauty shop will occupy only a small part of the structure, and the fact that a beauty shop is being operated from the home will likely be indiscernible to passersby**. 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 requested special exception does not alter the essential character of the district as the use will likely be indiscernible to passersby**. The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district in that

the purpose of the zoning district is to promote the public health, safety, morals, and general welfare of the city. The granting of this special exception will not weaken these purposes, nor will it weaken the regulations established for this district.” The motion was seconded by Mr. Quijano.

**AYES:** Rogers, Quijano, Camargo, Rodriguez, Kuderer, Dutmer, Zuniga, Cruz, Ozuna, Britton, Gallagher

**NAYS:** None

**THE SPECIAL EXCEPTION WAS GRANTED.**

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**CASE NO. A-13-052**

Applicant – Dominica A Castillo

Lot 1, NCB 751

721 West Cypress Street

Zoned: “I-1 AHOD” General Industrial Airport Hazard Overlay District

The applicant is requesting a 1) a 23.5-foot variance from the requirement in Table 310-1 of the UDC for a 30-foot side yard setback requirement to allow a structure 6.5 feet from the property line; 2) an 18.5 foot variance from the requirement in Table 510-1 of the UDC for a 25-foot bufferyard requirement to allow a structure within 6.5 feet of the property line; and 3) a 0.96-foot variance from the requirement in Table 310-1 of the UDC for a 30 foot side yard setback requirement to allow a structure 29.04 feet from the property line

Tony Felts, Senior Planner, presented background and staff’s recommendation of approval of the requested variances. He indicated 16 notices were mailed, 8 were returned in favor and none were returned in opposition and he Five Points Neighborhood Association is in support

Matthew Coward, representative, stated the variance request would provide protection of the vehicles. He also stated alternative solutions of the carport would be a very expensive process for the property owner. The carport would solely be used for personal vehicles and not any commercial equipment. He further stated a drainage study was conducted on the property and water flows to the front of the property. The engineer recommended that property owner install gutters on the carport and a curb.

**The following citizens appeared to speak:**

Maria T. Gomez, citizen, spoke in favor.

Laura Sanguino, citizen, spoke in favor.

Robert Corbo, citizen, spoke in favor.

James Martin, citizen, spoke in opposition.

Dominica Castillo, 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-13-052 closed.

## MOTION

A motion was made by Mr. Ozuna. "Re Appeal No A-13-052, variance application for 1) a **23.5-foot variance from the requirement in Table 310-1 of the UDC for a 30-foot side yard setback requirement to allow a structure 6.5 feet from the property line;** 2) an **18.5 foot variance from the requirement in Table 510-1 of the UDC for a 25-foot bufferyard requirement to allow a structure within 6.5 feet of the property line;** and 3) a **0.96-foot variance from the requirement in Table 310-1 of the UDC for a 30 foot side yard setback requirement to allow a structure 29.04 feet from the property line,** subject property description Lot 1, NCB 751, situated at 721 West Cypress Street, the applicant being **Dominica A. Castillo**. I move that the Board of Adjustment grant the applicant's request regarding Appeal No. **A-13-052**, 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 **building setbacks are designed to maintain orderly and safe development, and ensure access to air and light. Additionally, setbacks, in combination with required bufferyards, are also used to separate different intensity land uses. In this case, imposition of a 30-foot side setback and a 25-foot bufferyard from both the east and west sides of the lot would cause the lot to be unbuildable. As such, a reduction in the required setbacks and bufferyards is necessary and not contrary to the public interest.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **imposition of the building setbacks and bufferyards as required by the UDC would render the lot unbuildable and could be considered an unnecessary hardship.** The spirit of the ordinance is observed and substantial justice is done in that **the ordinance is designed to protect separate incompatible land uses with setbacks and bufferyards. The ordinance is not designed to deny a property owner the right to construct a building or have a conforming use on their property. As the setbacks and bufferyards would render the lot unbuildable, granting the variance will observe 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 variance will not authorize the operation of a use on the subject property other than those specifically permitted in the "I-1" zoning district. Further I would like to add, as part of the testimony the applicant's representative made affirmative actions that the intended use of the property would be for parking only and no storage of any kind of commercial equipment. So it's limited for the benefit of the owners.** 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 variance, as presented, would not substantially injure the appropriate use of adjacent conforming properties as the applicant's proposed structure is light in intensity, and essentially will function as a carport. Additionally, the shared boundary with the**

**residential uses is the rear yard of those uses, and the UDC requires a setback of 20 feet for the rear yards of the adjacent 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 **the circumstances existing on the property are unique and were not created by the owner as the circumstances are a function of the lot's size and configuration.**" The motion was seconded by **Mr. Zuniga.**

**AYES: Ozuna, Zuniga, Camargo, Rodriguez, Kuderer, Britton, Rogers, Cruz, Dutmer, Gallagher**

**NAYS: Quijano**

**THE VARIANCES WERE GRANTED.**

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**CASE NO. A-14-009**

Applicant – Brian Wiggins

Lot 38, Block 1, NCB 14952

5807 Randolph Boulevard

Zoned: "C-3 AHOD" General Industrial Airport Hazard Overlay District and "C-2 AHOD" Commercial Airport Hazard Overlay District

The applicant is requesting 1) a variance to eliminate the required 25-foot buffer yard on the east property line. 2) A 10-foot variance on the east property line from the required 30-foot side yard setback to allow building addition 20-feet from the property line and a 25-foot fire lane in the required buffer yard.

Osniel Leon, Planner, presented background and staff's recommendation of denial of the requested variance. He indicated 28 notices were mailed, 3 were returned in favor and 3 were returned in opposition.

Matthew Hutzler, owner, stated his property is commercial and industrial. He also stated the neighbor is in favor of deleting the few additional feet of the buffer.

Warren Wonderlicke, representative, stated the original building was built 21 feet off of the property line. He also stated all of the property is industrial except for the one residential lot on that part of Randolph. He further stated the neighbor has provided a letter in support.

**The following citizens appeared to speak:**

Lauren Bancker, citizen, spoke in opposition.

Adrian Bancke, 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-14-009 closed.

## MOTION

A motion was made by **Mr. Ozuna**. “Re Appeal No **A-14-009**, variance application for **1) a variance to reduce the required 25-foot landscape buffer yard on the east property line to 6-feet from the required 25-foot and 2) A 10-foot variance on the east property line from the required 30-foot side yard setback to allow a building addition 20-feet from the property line and a 25-foot fire lane in the required buffer yard**. I move that the Board of Adjustment grant the applicant’s request regarding the appeal No **A-14-009**, 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 applicant has provided testimony to us today about the adjoining property owner that would be most affected, being the single-family “R-6” zoned property, that is in compliance and concurrence with what the applicant is trying to do. Additionally the applicant is proposing and is part of the variance to improve with a 6-foot landscape buffer as a buffer setback against the residential zoning to the east**. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the applicant is commercially zoned for the subject use, what appears to be a spot zone “R-6” residential adjacent to the property is what is creating a hardship. The applicant can build but will require an offset so its not like he couldn’t build what he is proposing, it just would necessitate a kind of irregular configuration of the building. The variance merely sets out to correct that issue. The spirit of the ordinance is observed and substantial justice is done in that most likely that “R-6” residential zoning will not exist in the future as it is completely surrounded in an almost spot that is “R-6” around Industrial uses and that’s creating the hardship here. The variance if granted would provide substantial justice to the applicant to remedy that situation**. 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 “I-1” and “C-2” districts. Again the applicant can construct and can continue the operation. He can construct what he is proposing without this variance. The variance is merely allows for him to provide a workable configuration of the building for his operations**. 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 **again the property is zoned and the applicant has the right to develop the property. The variance merely adjusts the configuration of the building to allow for a more efficient use of the property so the injury to the neighbors is mitigated by 1) the applicant will be constructing a landscape buffer on the side setback and 2) the applicant can build on the property as he is proposing it just merely allows for a realignment of the building with the requested variance**. 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 **again points to my original arguments about the configuration of the lot. The adjacent "R-6" zoning which would most likely not exist in the future due to what I would consider almost like a spot zoning..**" The motion was seconded by **Mr. Camargo.**

### **SUBSTITUE MOTION**

A motion was made by **Mr. Camargo.** Re Appeal No A-14-009, on property at **5807 Randolph Boulevard,** legally described as **Lot 38, Block 1, NCB 14952,** that we **not grant the variance to the setback of the building but grant the variance to reduction of the buffer area, 6-feet from the required 25-foot, in as much that we have two conflicting city codes that prohibit the construction on this property. I feel that the majority of the reasons that were stated earlier by Mr. Ozuna apply.** Specifically, we find that such variance will not be contrary to the public interest in that **the adjacent property for the most part where the building is to be constructed abuts an "I-1" zoning classification. It is only a small portion of the building that abuts "R-6" in my opinion would not affect those property owners and yes we did have opposition stated by adjacent property owners. Again that is not the issue. I wish I would have heard from the applicant that we would look in to and see what it is we can do to eliminate the concerns of the property owners but that's outside of our direction. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that it would prohibit the development of the property. The condition that we have here is that we have an irregular shaped lot, a narrow shaped lot, for an industrial use that for the most part is in an industrial area except for one residential. I feel that the variance on the buffer yard is extremely necessary. The spirit of the ordinance is observed and substantial justice is done in that I feel that complying with the fire code requirements that justice will be done in the protection of the structure that is to be constructed.** 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 use will not prohibit in the zoning classification that goes without saying that only those uses within the "I-1" zone are permitted.** 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 **as it was pointed out earlier the variance we are considering that the buffer yard is away from the majority residential area to the Northwest and only affects a small portion of "R-6" property to the Southeast.** 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 circumstance being that he has an existing building and he proposes to expand the commercial building but due to technicalities and the zoning classification in the midst of an industrial area it poses these constraints on the further development of the property. For those reason I feel that we should grant the variance and that reducing the buffer yard along the southeast property line.** The motion was seconded by **Zuniga.**

**AYES: Camargo, Zuniga, Kuderer, Quijano, Rogers, Ozuna, Britton, Rodriguez, Dutmer, Gallagher**

**NAYS: Cruz**

**THE SUBSTITUTE MOTION WAS GRANTED.**

**Board members recessed for 10 minutes.**

**CASE NO. A-14-010**

Applicant – Francisco E. Castillo  
Lot 5 Block 5 NCB 14513  
5410 Marconi Drive  
Zoned: “R-6 AHOD” Residential Single-Family Airport Hazard Overlay District

The applicant is requesting a 1-foot variance from the 4-foot maximum fence height to allow a predominantly open fence 5 feet in height in the front yard.

Tony Felts, Planner, presented background and staff’s recommendation of approval of the requested variance. He indicated 34 notices were mailed, 2 were returned in favor and none were returned in opposition.

Maria De Los Santos, representative, stated the fence would provide security and protection of her family. She also stated there have been numerous incidents that have occurred in the past and vehicles travel at a high number of speed in the area. There was an incident where an intoxicated driver wrecked into the yard of one of the homes. She further stated that the fence height would only be requested for the front yard.

**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-14-010 closed.

**MOTION**

A motion was made by **Mr. Quijano**. “Re Appeal No **A-14-010**, variance application for a **1-foot variance from the 4-foot maximum fence height to allow a predominantly open fence 5 feet in height in the front yard**, subject property description **Lot 5, Block 5, NCB 14513**, situated at **5410 Marconi Drive**, applicant being **Francisco E. Castillo**. I move that the Board of Adjustment grant the applicant’s request regarding Appeal No. **A-14-010**, 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 **front yard fences of varying materials are common in this area. In fact, in September and October, the Board approved five similar variance requests in this neighborhood. The differences between the applicant’s fence and the required design specifications required for a special exception, which is a lower burden of proof than a**

**variance, are minute for the portion of the fence that is composed of wrought iron, and likely indiscernible to passersby. The chain link portion of the fence is no higher than the wrought iron portion. As such, 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 a review of the City of San Antonio’s online crime tracking tool does reveal that there have been instances of burglary, theft, and assault in the area of the subject property. The spirit of the ordinance is observed and substantial justice is done in that the fence is predominantly open, allowing for clear vision and free flow of air and light. Because of this, the spirit of the ordinance will be observed and substantial justice 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 variance will not authorize the operation of a use on the subject property other than those specifically permitted in the Residential Single-Family base zoning districts.** 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 use of the fence would likely have the effect of enhancing the quality of life for the applicants and deterring crime.** 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 the property were not caused by the applicant, but rather the circumstances result from crime in the area.”** The motion was seconded by Ms. Cruz.

**AYES: Quijano, Cruz, Camargo, Dutmer, Kuderer, Rodriguez, Rogers, Britton, Zuniga, Ozuna, Gallagher**

**NAYS: None**

**THE VARIANCE WAS GRANTED.**

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**CASE NO. A-14-011**

Applicant – Cesar & Marylou Cervantes  
 Lot 9, Block 6, NCB 9700  
 118 Englewood Drive  
 Zoned: “R-4 AHOD” Residential Single-Family Airport Hazard Overlay District

The applicant is requesting 1) a 2.5 foot variance from the minimum 10-foot front yard setback and 2) a 4-foot variance from the minimum 5-foot side yard setback to allow an existing carport.

Osniel Leon, Planner, presented background and staff’s recommendation of denial of the requested variance. He indicated 33 notices were mailed, 3 were returned in favor and none were returned in opposition.

Cesar Cervantes, applicant, stated the carport would protect the vehicles. He also stated the carport would allow some alleviation for his family to board vehicles due to their medical condition.

Mary Lou Cervantes, applicant, stated her son is legally blind and will eventually require a wheelchair in which the carport would help to keep him and the wheelchair protected.

**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-14-011 closed.

## **MOTION**

A motion was made by **Mr. Ozuna**. “Re Appeal No **A-14-011**, variance application for **1) a 2.5-foot variance from the minimum 10-foot front yard setback and 2) a 4-foot variance from the minimum 5-foot side yard setback to allow an existing carport**, subject property description **Lot 9, Block 6, NCB 9700**, situated at **118 Englewood Drive**, applicant being **Cesar & Marylou Cervantes**. I move that the Board of Adjustment grant the applicant’s request regarding Appeal No. **A-14-011**, 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 **building setbacks are designed to maintain orderly and safe development, and ensure access to air and light. The applicant provided testimony and provided evidence by the photographs there is no adjoining structure towards that carport extension so the light and air would be able to transport all the way through the carport with no blockage there. Also the applicant did provide testimony that there are similar structures within the neighborhood. This kind of speaks to the acceptance of these kinds of carports in the neighborhood. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that the special conditions are essentially the state of the applicant’s family, needing to protect his son and wife who are obviously have health issues that need to be protected from the elements. The spirit of the ordinance is observed and substantial justice is done in that by granting the variance the ordinance would allow the applicant to care for his family members and substantial justice will be done in that the applicant is abiding by the provisions of the UDC in that the structure does allow for the safe development in light and air underneath the structure. It doesn’t impede the neighborhood. Additionally, the applicant stated that he will be putting in gutters on that neighboring properties side to get the water off neighbor’s property onto his 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 requested variances will not authorize the operation of a use on the subject property other than those specifically permitted in the “R-4” base 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 most affected property by the improvements is that neighbor located to the east of the property and that neighbor has been in favor in what the applicant is proposing. Additionally, these structures are prominent in the neighborhood so it is an accepted structure within the neighborhood. 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 **again I will speak to the applicant's necessity of this structure to protect his family members from the elements as they are getting in and out of their vehicles.**" The motion was seconded by **Mr. Rodriguez.**

**AYES: Ozuna, Rodriguez, Kuderer, Quijano, Camargo, Dutmer, Rogers, Britton, Zuniga, Cruz, Gallagher**

**NAYS: None**

**THE VARIANCE WAS GRANTED.**

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**CASE NO. A-14-013**

Applicant – Robert Courchesne

Lots 307 & 310, Block E, NCB 11552

4207 W Horseshoe Bend

Zoned: "R-20 NCD-3 AHOD" Residential Single-Family, Ingram Hills Neighborhood Conservation District, Airport Hazard Overlay District

The applicant is requesting a 15-foot variance from the minimum 50-foot front yard setback, as detailed in Table 35-335, to allow a building addition 35 feet from the front property line.

Margaret Pahl, Senior Planner, presented background and staff's recommendation of approval of the requested variance. She indicated 15 notices were mailed, none were returned in favor and none were returned in opposition and the Ingram Hills Neighborhood Association is in support.

Robert Courchesne, applicant, stated the owners are in the process of wanting to rehab the existing residential structure to improve the character of the neighborhood. He also stated additional square footage is going to be added to the existing home. He further stated the front porch will be the only part of construction that will be encroaching.

**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-14-013 closed.

**MOTION**

A motion was made by **Mr. Rodriguez**. "Re Appeal No **A-14-013**, variance application for a **15-foot variance from the minimum 50-foot front yard setback, as detailed in Table 35-335, to allow a building addition 35 feet from the front property line**, subject property description **Lots 307 & 310, Block E, NCB 11552**, situated at **4207 W. Horseshoe Bend**, applicant being **Robert Courchesne**. I move that the Board of Adjustment grant the applicant's request regarding this appeal, 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 applicant is requesting that the minimum front setback be reduced from 50 feet to 35 feet. The setbacks in the NCD range from 25 feet to 50 feet creating a pattern of diversity. The proposed addition is in the public interest.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **literal enforcement would require the applicant to construct the addition to the rear, a more awkward expansion due to topography.** The spirit of the ordinance is observed and substantial justice is done in that **several other homes in the area have smaller front setbacks. The neighborhood association supported the request, noting that the house abuts commercially zoned property on the edge 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 "R-20 NCD-3 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 addition to the front of the house will improve the curb appeal of the mid-century Rambler, contributing to 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 plight of the owner is due to the following conditions: the existing location of the house, 45 feet from the front property line, the large size of the lot, 1.5 acres, and the sloping topography toward the rear.**" The motion was seconded by Ms. Cruz.

**AYES: Rodriguez, Cruz, Kuderer, Dutmer, Camargo, Britton, Rogers, Quijano, Zuniga Ozuna, Gallagher**

**NAYS: None**

**THE VARIANCE WAS GRANTED.**

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**CASE NO. A-14-014**

Applicant – Brown & Ortiz, P.C.

Lot 6, Block 8, NCB 3264

308 W Summit

Zoned: "R-5 H AHOD" Residential Single-Family, Historic, Airport Hazard Overlay Districts

The applicant is requesting 1) a 10-foot variance from the minimum 12-foot rear yard setback and 2) a 4-foot variance from the minimum 5-foot side yard setback to allow a building addition 2-feet from the rear yard and 1 foot from the west side yard.

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 one was returned in opposition and no response from the Monte Vista Neighborhood Association.

James Griffin, representative, stated the addition is necessary to accommodate a growing family and allow the nanny to live on site as well. He also stated the majority of the variance is only needed because of the connection to the main structure.

**The following citizens appeared to speak:**

Paul Kinnison, citizen, spoke in opposition.

John Nixon, 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-14-014 closed.

**MOTION**

A motion was made by **Mr. Kuderer**. "Re Appeal No **A-14-013**, variance application for **1) a 10 foot variance from the minimum 12-foot rear yard setback; and 2) a 4 foot variance from the minimum 5-foot side yard setback to allow a building addition 2-feet from the rear yard and 1 foot from the west side yard**, subject property description **Lot 6, Block 8, NCB 3264**, situated at **308 W. Summit Avenue**, applicant being **Brown & Ortiz, P.C.** I move that the Board of Adjustment grant the applicant's request regarding the appeal **A-14-014**, 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 applicant states that the 16-foot wide public alley provides the necessary separation typically achieved by setbacks. The applicant also asserts that the addition will be hidden from public view, and is planned with the least disruption to existing mature vegetation. They also included that they will be putting additional vegetation in there as much as possible.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the applicant states that this connection is interior and virtually invisible to the public.** 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 would be followed by virtue of the separation provided by the alley. According to the applicant, the vegetation is mature and dense all around the property, blocking the off-site view of the proposed addition.** 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 H 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 property is very well-maintained and certainly contributes to the**

character of the historic district. The selected design approach minimizes the off-site impacts; it is virtually invisible from the street. A staff site visit found that the neighboring alley had several accessory structures immediately adjacent; this was the typical location during the early 20th century. 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 asserts that the unique circumstances are that the lot is heavily landscaped, and located within a historic district. All additions within a historic district are reviewed for a certificate of appropriateness and encouraged to be hidden from view.**” The motion was seconded by Mr. Quijano.

**AYES: Kuderer, Quijano, Rodriguez, Gallagher**

**NAYS: Rogers, Zuniga, Camargo, Britton, Cruz, Dutmer**

**RECUSAL: Ozuna**

**THE MOTION FAILED AND THE VARIANCE WAS DENIED.**

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**CASE NO. A-13-078**

Applicant – Michael Hayes  
Lot 5, Block A, NCB 11649  
151 Algerita Drive  
Zoned: “R-5” Residential Single-Family District

The applicant is requesting an appeal of the following Director’s decisions: 1.) Railing is not a fence as defined in the *Unified Development Code* or a sport court fence subject to the minimum 20-foot setback requirement of *Section 35-514(b)(1)* of the *Unified Development Code* [see permit AP #1908870]; and, 2.) A non-permanent netting barrier system is not a fence as defined in the *Unified Development Code* or a sport court fence subject to the minimum twenty (20) foot setback requirement of *Section 35-514(b)(1)* of the *Unified Development Code* [see permit AP #1876879].

#### **MOTION**

A motion was made by **Ms. Rogers to continue this case until the next regularly scheduled meeting on January 13, 2013.** The motion was seconded by **Mr. Quijano.**

**AYES: Camargo, Quijano, Rodriguez, Dutmer, Kuderer, Britton, Rogers, Cruz, Zuniga, Gallagher**

**NAYS: None**

**THE MOTION PASSES.**

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**CASE NO. A-14-016**

Applicant – Oscar Flores  
Lo 87, Block 5, NCB 9009  
5230 San Pedro Avenue  
Zoned: “O-2 H AHOD” Office, Historic, Airport Hazard Overlay Districts

The applicant is requesting 1) a 12-foot variance from the minimum 25-foot front yard setback to allow a building addition 13 feet from the east property line; 2) a 15-foot variance from the minimum 15-foot front & rear buffer yards to allow a building addition and parking up to the east and west property lines

Margaret Pahl, Senior Planner, presented background and staff’s recommendation of approval of the requested variances. She indicated 21 notices were mailed, 1 was returned in favor and none were returned in opposition and no response from the Olmos Park Terrace and Northmoor Neighborhood Association.

Timothy Cone, representative, stated the owner has operated the business next door to this structure for many years. He also stated he felt putting the addition on the Mandalay street side of the existing building would negatively impact the residential properties in the back.

Oscar Flores, applicant, stated he needed more room for his business and the variance would provide the room. He also stated he thought about moving but his business is well known and he would like to keep his current location. He further stated the business does not impact the neighborhood.

**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-14-016 closed.

**MOTION**

A motion was made by **Ms. Rogers**. “Re Appeal No **A-14-016**, variance application for **1) a 12-foot variance from the minimum 25-foot front yard setback to allow a building addition 13 feet from the east property line; 2) a 15-foot variance from the minimum 15-foot front & rear buffer yards to allow a building addition and parking up to the east and west property lines**, subject property description **Lot 87, Block 5, NCB 9009**, situated at **5230 San Pedro Avenue**, applicant being **Oscar Flores**. I move that the Board of Adjustment grant the applicant’s request regarding Appeal No. **A-14-016**, 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 asserts that the variance would bring the building addition in line**

with the setbacks of the adjacent 9 buildings along the frontage. The applicant is proposing to install at least 600 square feet of new landscaping, which should make a significant contribution to the streetscape. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that the special condition affecting this property according to the applicant is the difficulty in being noticed by the passing motorist. The building is currently tucked up to the rear of the parcel, with a front setback of almost 70 feet. A front addition is proposed to resolve this poor commercial image; however the applicant states that the required setback of 25 feet will still place his building at a disadvantage. The spirit of the ordinance is observed and substantial justice is done in that the proposed building will be setback at a similar location as other businesses along this section of San Pedro Avenue which does comply with the spirit of the ordinance being observed and substantial justice being 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 variance will not authorize the operation of a use on the subject property other than those specifically permitted in the "O-2 H 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 this desire is to increase its market image. An improvement of this outdated commercial building will very likely contribute to the character of the adjacent district and the applicant has stated that and he is become aware that his location is well known and would like to stay in that spot. 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 plight of the owner is caused by the location of the adjacent commercial properties and their proximity to the street. It is likely more related to the zoning district conversion which somehow placed small neighborhood office uses into a high rise zoning district designed for large office buildings at interstate interchanges and that is probably due to the way San Pedro developed to become a major artery." The motion was seconded by Mr. Quijano.

**AYES:** Rogers, Quijano, Camargo, Rodriguez, Kuderer, Dutmer, Zuniga, Britton, Ozuna, Cruz, Gallagher

**NAYS:** None

**THE VARIANCE WAS GRANTED.**

Mr. Britton left the board room at 5:29 p.m.

#### **Approval of the Minutes**

The December 2, 2013 minutes were approved with all members voting in the affirmative.

There being no further discussion, meeting adjourned at 5:31 pm.

APPROVED BY: Michael R. Mulloy OR \_\_\_\_\_  
Michael Gallagher, Chairman Andrew Ozuna, Vice-Chair

DATE: 1-13-14

ATTESTED BY: [Signature] DATE: 1-15-14  
Executive Secretary