BOARD OF ADJUSTMENT
OFFICIAL MINUTES
January 12, 2015

Members Present:

Andrew Ozuna
Mary Rogers
Frank Quijano
Alan Neff
George Britton
Gabriel Velasquez
Jesse Zuniga
John Kuderer
Roger Martinez
Gene Camargo
Henry Rodriguez

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.

Mr. Rodriguez arrived at 1:02 p.m.

CASE NO. A-15-030

Applicant – Maria Gonzalez
Lot 13, Block 50, NCB 8940
431 McLaughlin Avenue
Zoned: "RM-4 AHOD" Residential Mixed Airport Hazard Overlay District

The applicant is requesting 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 special exception. He indicated 27 notices were mailed, one was returned in favor and 2 were returned in opposition and no response from the Quintana Neighborhood Association.

Maria Gonzalez, applicant, stated she will only have applicants by appointment.

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-15-030 closed.

MOTION

A motion was made by **Mr. Rodriguez.** Re Appeal No **A-15-030**, special exception to **allow a one operator beauty/barber shop within a single-family home as described in Section 35-399.01**, subject property description **Lot 13, Block 50, NCB 8940**, located at **431 McLaughlin Avenue**, applicant being **Maria Gonzalez.** I move that the Board of Adjustment grant the applicants request regarding Appeal No. **A-15-030**, application for a Special Exception for the subject property s 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 spirit of the chapter, in this case, is represented by minimum requirements to ensure that the operation of a one-operator beauty/barber shop does not negatively impact the character of the community or the quality of life of neighbors. Staff noted that nothing about the home distinguishes it from others in the community. The applicant has fulfilled all requirements for a one-operator shop as established in the Unified Development Code. Staff would recommend a reduction in the hours requested to allow the operation, Tuesday thru Saturday, from 9am through 3pm and 4 pm to 6 pm for a total of 40 hours. Approving this modification would still allow the shop to operate 40 hours per week and not at times when it may negatively affect neighboring residences. Staff is recommending an approval not to exceed two years as this is the first time that the applicant has applied for a special exception. As such, staff finds that the special exception is in harmony to the spirit of the chapter**. The public welfare and convenience will be substantially served in that **the applicant has already constructed the beauty/barber shop within her home and this is her first request for a special exception. Approving the request for the special exception, with limited hours, will allow the applicant to serve customers in her community and therefore the public welfare will be served.** The neighboring property will not be substantially injured by such proposed use in that **the requested special exception is not likely to negatively impact adjacent property owners because the home is in character with those around it. During field visits staff noted nothing visible from the street that would indicate the presence of a beauty/barber shop. Also, during field visits staff noted a driveway capable of providing any necessary parking for the proposed use.** 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 is not likely to alter the essential character of the district as the property is still used, primarily, as a single-family residence. From the street, the home is not unlike other homes in the community.** The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district in that **the primary use of the dwelling remains a single-family home. The one-operator barber/beauty shop will have restricted hours, which are established by the Board of Adjustment. The applicant has met all other requirements established by the Unified Development Cod**. The motion was seconded by **Mr. Neff.**

AYES: Cruz, Quijano, Klein, Garcia, Britton, Zuniga, Kuderer, Martinez, Camargo, Rogers, Ozuna
NAYS: None

THE SPECIAL EXCEPTION WAS GRANTED.

CASE NO. A-15-037

Applicant – Shavano Rogers Ranch North No. 3, LTD
Lot 999, Block 17, NCB 17701
18029 Shavano Ranch Road
Zoned: "R-6 PUD ERZD MLOD AHOD" Residential Single-Family Planned Unit Development Edwards Aquifer Recharge Zone Military Lighting Overlay Airport Hazard Overlay District

The applicant is requesting 1) a 3 foot variance from the maximum 8 foot monument sign height, as described in Section 28-240, to allow an 11 foot tall monument sign at the entrance to a residential subdivision; 2) a 15 foot variance from the minimum 15 foot setback from a public street to allow the monument sign on the property line; and 3) a 5 foot variance from the maximum 8 foot perimeter wall height, as described in Section 35-514 (d) to allow a decorative wall element no taller than 13 feet tall for a length of 22 feet.

Margaret Pahl, Planner, presented background and staff's recommendation of denial of the requested variances. She indicated 5 notices were mailed, none were returned in favor and none were returned in opposition.

Andrew Perez, Sign Inspector, stated he typically searches for a property when permits for signs are submitted. He also stated the visual requirements must be complied with if the variance were to be granted.

James Griffin, representative, stated the variance would provide to diminish an 800 feet solid wall. He also stated the variance would also provide some distinction of the wall. He further stated the variance would provide safety.

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-15-037 closed.

MOTION

A motion was made by **Mr. Camargo.** I would move that in Case No. **A-15-037**, applicant being **Shavano Rogers Ranch North No. 3, LTD,** property located at **18029 Shavano Ranch Road,** subject property description **Lot 999, Block 17, NCB 17701,** be granted variances **1) a 3 foot variance from the maximum 8 foot monument sign height, as described in Section 28-**

240, to allow an 11 foot tall monument sign at the entrance to a residential subdivision; 2) a 15 foot variance from the minimum 15 foot setback from a public street to allow the monument sign on the property line which pertain to Chapter 28. 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. **One the items that was brought up by the applicants and although it wasn't visibility seen in photographs that I could see anyhow is that there is a drop. It is not a level public street Shavano Ranch Road that leads to the entrance and there are some topography issues along some pretty heavy trees that exist on the property that would perhaps somehow make it difficult to see that entrance on this curving roadway that was shown on the screen.** A denial of the variance would probably cause a cessation of legitimate, longstanding active commercial use of the property. Granting the variance does not provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated. **I would say that the topography, the curvature of the public street, and the location of the entrance to the subdivision in relation to that curvature would necessitate this variance to be granted.** Granting the variance will not have a substantially adverse impact upon neighboring properties. **This is the entrance to a 275 acre tract of land. I do not believe that the location of this entrance would be detrimental to any other entrances that may be developed in the future along this roadway.** Granting the variance will not substantially conflict with the stated purposes of this article. **I would think that the stated purposes of the article were to in fact provide visibility to an entrance that would lead to a safe traffic entering and exiting from a subdivision as large as the one that has been shown. I would like to mention also that as part of this requested variance and motion that the drawings that have been submitted be made part of the record and that this variance is in accordance with that information that was submitted**. The motion was seconded by **Mr. Zuniga.**

Mr. Camargo made a motion to withdraw his motion with Mr. Zuniga seconding the motion.

A motion was made by **Mr. Camargo to continue this case until the next regularly scheduled meeting on February 2, 2015 in order to allow the applicant to submit more information**. The motion was seconded by **Mr. Zuniga.**

AYES: Camargo, Zuniga, Quijano, Neff, Velasquez, Britton, Rodriguez, Kuderer, Martinez, Rogers, Ozuna
NAYS: None

THE MOTION PASSES.

Board members recessed for five minutes.

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 were returned in opposition.

Daniel Alvarado, applicant, stated the fence would provide security and protection for their family due to increase crime activity in the neighborhood. He also stated the neighbors are in favor of his fence. He further stated several neighbors have had several issues with law enforcement.

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 **Mr. Velasquez.** Re Appeal No. **A-15-024**, variance application for 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,** subject property description **Lot 28, Block 2, NCB 14459,** situated at **1803 W Mally Boulevard**, applicant being **Daniel Alvarado.** I move that the Board of Adjustment grant the applicant's request regarding Appeal No. **A-15-024**, 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. The applicant and has given us data that shows his community has a high issue with crimes.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **while staff was unable to find any special condition the testimony presented to us today shows that the property owner is dealing with an issued theft as are members of his immediate community who signed on a petition to Mr. Alvarado's application.** The spirit of the ordinance is observed and substantial justice is done in that **the spirit of the ordinance is observed in that this property who finds himself on a corner property may find himself with additional stressors as a corner property usually has a heighten traffic count which is probably why**

he may be having issues with theft around the area of his garage. The spirit of the ordinance will be observed as there are conditions present on the property that warrant the granting of this variance. His property is obviously, having to do with the people who are intruding on to 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. 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 very company that communities have buffer districts and him being on the corner property that has the unique characteristic that right across the street the code enables six foot fences. I think that his property and probably other adjacent properties to that corner offer a visual buffer.** 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 being that as he has submitted in his page 8 of his variance request the crime stats. I think that they speak for themselves. They are 37% higher than San Antonio crime statistics.** The motion was seconded by **Mr. Rogers.**

AYES: Velasquez, Rogers, Quijano, Neff, Britton, Rodriguez, Ozuna
NAYS: Zuniga, Kuderer, Martinez, Camargo

THE VARIANCE WAS NOT GRANTED.

CASE NO. A-15-036

Applicant – Slay Engineering Co, Inc
Lots 13 and 22, Block 70, NCB 16334
18603 Blanco Road
Zoned: "C-2 ERZD MLOD" Commercial Edwards Aquifer Recharge Zone Military Lighting Overlay District

The applicant is requesting a four foot variance from the six foot maximum as described in Section 35-14 to allow a fence ten feet tall between a shopping plaza and a single-family neighborhood.

Logan Sparrow, Planner, presented background and staff's recommendation of approval of the requested variance. He indicated 40 notices were mailed, 2 were returned in favor and 2 were returned in opposition.

Adam Waugh, applicant, stated the variance would provide a noise barrier for the adjacent neighbors due to early morning deliveries. He also stated the wall will below the landscaping to possibly attempt the visibility of the wall to the adjacent neighbors. He further stated there are existing trees that they would like to avoid from removing them.

Adam Osbourne, spoke on behalf of the HOA and briefed the board members on Whole Foods having deliveries that begin at three in the morning.

The following citizens appeared to speak:

Lisa Dausim, 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-15-036 closed.

MOTION

A motion was made by **Mr. Kuderer.** Re Appeal No. **A-15-036**, variance application for a **four foot variance from the six foot maximum as described in Section 35-514 to allow a fence ten feet tall between a shopping plaza and a single-family neighborhood,** subject property description the **Lots 13 and 22, Block 70, NCB 16334,** situated at **18603 Blanco Road**, applicant being **Slay Engineering Co, Inc.** I move that the Board of Adjustment grant the applicant's request regarding Appeal No. **A-15-036**, 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 height limitations for fencing and walls to encourage a sense of community. This is a unique scenario in that there are two land uses of drastically different intensities abutting one another. On one side of the proposed wall are single-family homes and on the other a large retail shopping center, The Vineyards. . Staff finds that the proposed wall in not contrary to the public interest, especially considering that its height is the result of a collaborative effort between the retail center owners and the neighboring properties behind them.** 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 construct the wall not to exceed six feet in height. A six foot tall fence would not adequately separate the two uses and would likely lead to a compromised enjoyment of the single-family properties to the rear of the shopping center.** The spirit of the ordinance is observed and substantial justice is done in that **the spirit of the ordinance is respected as the fence serves to provide the added separation necessary for enjoyment of the homes that abut the shopping center.** 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 ERZD MLOD" Commercial Edwards Aquifer Recharge Zone 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 unlikely to harm adjacent, conforming properties. The proposed wall serves to protect adjacent residential properties as we heard from the testimony before us. Additionally, the wall is the result of a collaborative effort between the retail center owners**

and residential property owners to find a solution to the noise problem with all the dump trucks and trash going back there. 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 **staff finds that the unique circumstances present in this case are the two land uses of very different intensities abutting one another. The wall is proposed as a means to mitigate the negative effects of having the rear of a shopping center so close to single-family homes. This problem is not a result of general conditions in the area nor is the problem merely financial in nature**. The motion was seconded by **Mr. Zuniga.**

AYES: Kuderer, Zuniga, Quijano, Neff, Velasquez, Britton, Rodriguez, Martinez, Camargo, Rogers, Ozuna
NAYS: None

THE VARIANCE WAS GRANTED.

Board members recessed for five minutes.

Mr. Camargo made a motion to reconsider Case No. A-15-024. Mr. Martinez seconded the motion with all members voting in the affirmative.

CASE NO. A-15-027

Applicant – Jose Torres
Lot 49, Block 3, NCB 16662
9222 Rustlers Creek
Zoned: "R-5" Residential Single-Family District

The applicant is requesting a five foot variance from the required five foot side and rear yard setbacks, as described in Section 35-370, to allow an arbor and deck on the side and rear yard property line

Margaret Pahl, Senior Planner, presented background and staff's recommendation of denial of the requested variance. She indicated 21 notices were mailed, 2 were returned in favor and none were returned in opposition and no response from the Vance Jackson Neighborhood Association.

Christina Guerra, representative, stated the homeowner repaired the existing deck that was deteriorated. She also stated in the process of repairing the deck the homeowner felt that he needed some shade and added the addition to the deck.

The following citizens appeared to speak:

Hector Hernandez, 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-15-027 closed.

MOTION

A motion was made by Mr. Camargo. I would move that in Case No. **A-15-027**, the request of **Jose Torres,** on property located at **9222 Rustlers Creek,** legally described as **Lot 49, Block 3, NCB 16662,** be granted a variance to **keep a deck that is existing, that has been verbally described but we don't have a plot plan on it, that ranges in the height of 1 ½ to forty something inches be approved.** Specifically, we find that such variance will not be contrary to the public interest in that **an open deck that has been described by the applicant is not contrary to the public interest and that the adjacent property owner that is most affected to the northwest is in fact in favor of the request.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **although we don't really have all the evidence in what has been stated by the applicant, it appears that the terrain on the back of this particular lot forces an individual that wishes to have a deck to have a difference in elevation which ranges from 1 ½ foot to forty something inches.** The spirit of the ordinance is observed and substantial justice is done in that **this would allow them to keep a deck around an existing swimming pool that would not be of any vision obstruction to any of the surrounding area.** Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the subject property is located in that **which is that use of a single family.** 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 **through the permitting process for this deck that the adjacent properties would be protected from any possible fire hazard.** 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 **I feel that the only unique circumstances that have been mentioned is the fact that they have such an uneven terrain that in order to have a level deck that such a variation in height is necessary**. The motion was seconded by **Mr. Velasquez.**

AYES: Camargo, Velasquez, Neff, Zuniga, Rodriguez, Kuderer, Martinez, Rogers, Ozuna
NAYS: Quijano, Britton,

THE VARIANCE WAS GRANTED.

A motion was made by **Mr. Rodriguez to continue Case No A-15-027 in regards to the variance allowing an arbor on the side and rear yard property lines.** The motion was seconded by **Mr. Martinez.**

AYES: Rodriguez, Quijano, Neff, Velasquez, Britton, Zuniga, Rogers, Ozuna
NAYS: Kuderer, Martinez, Camargo

THE MOTION PASSES.

CASE NO. A-15-034

Applicant – Juan Castillo
Lot 3, Block 32, NCB 6664
1612 McKinley Avenue
Zoned: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District

The applicant is requesting the elimination of the required side setback as described in Section 35-370 to allow an accessory structure to remain on the side and rear property lines.

Logan Sparrow, Planner, presented background and staff's recommendation of denial of the requested variance. He indicated 35 notices were mailed, 4 were returned in favor and 2 were returned in opposition and no response from the Highland Park Neighborhood Association.

John Castillo, applicant, stated the shed would provide storage space for his belongings. He also stated there have been numerous trespassers in the alley. He further stated he hired a contractor and was not aware of any permits that were to be obtained before construction.

The following citizens appeared to speak:

Christine Pina, citizen, spoke in favor.

Gilbert Hernandez, citizen, spoke in favor.

Wyman Herring, citizen, spoke in favor.

Theresa 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-15-034 closed.

MOTION

A motion was made by **Mr. Velasquez.** Re Appeal No. **A-15-034**, variance application for **the elimination of the required side setback as described in Section 35-370 to allow an accessory structure to remain on the side and rear property lines,** subject property description the **Lot 3, Block 32, NCB 6664,** situated at **1612 McKinley Avenue**, applicant being **Juan Castillo.** I move that the Board of Adjustment grant the applicant's request regarding Appeal No. **A-15-034**, 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

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 **this structure that was built on the property line is using materials that are not susceptible to fire necessarily and that once going through the building department they may have to make additional fire considerations to the interior.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the structure was built specifically to deal with the situation that is creating a hardship, a dark dead zone in the rear of their property.** The spirit of the ordinance is observed and substantial justice is done in that **the spirit of the ordinance calls for setbacks to ensure access to air, light, and to provide distance for fire separation. The property and the structure that has been constructed is adjacent an alley that is adjacent a corner that gives ample opportunity for fire to really service this structure directly should a fire occur. The neighboring property has no structure that is adjacent to this rear and also in this area is an area unique to the rest of the city in that there are alleys throughout the entire area. The garages are typically built on the property line at zero in the rear.** 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 AHOD" Residential Single-Family Airport Hazard Overlay District. It is being utilized as a storage that is adjacent to the garage which is not contrary.** 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 **one of the things that are most outstanding in this situation is that the community is speaking and they share like issues. It seems that it's a common thread throughout their opinions. I think that most definitely says that this is a strategy, may not be the optimum strategy, but most definitely is a strategy that the community in the adjacent area there feels is a good strategy.** 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 **I think the gentleman that spoke that was part of the past has been in safe department of the police department, his testimony is most definitely paints a picture of the situation of people hiding in the alley and being a district 3 person as well know that our alleys are not necessarily being used the way that they were intended this days so this strategy is something that I think is a good strategy and is well built**. The motion was seconded by **Mr. Rodriguez.**

AYES: Velasquez, Rodriguez, Neff, Britton, Zuniga, Martinez, Rogers, Ozuna, Kuderer
NAYS: Quijano, Camargo

THE VARIANCE WAS GRANTED.

CASE NO. A-15-035

Applicant – Cleofas David Cristan
Lots 21 and 22, Block 9, NCB 6431
543 Gramercy Place
Zoned: "R-6 NCD-2 AHOD" Residential Single-Family Alta Vista Neighborhood Conservation Airport Hazard Overlay District

The applicant is requesting the elimination of the side yard setback as described in Section 35-310.01 to allow an addition to a home along the side property line.

Margaret Pahl, Planner, presented background and staff's recommendation of approval of the requested variance. She indicated 31 notices were mailed, 1 was returned in favor and none was returned in opposition.

David Cristan, applicant, stated he recently purchased the home and the addition would provide more comfort to the 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-15-035 closed.

MOTION

A motion was made by **Mr. Quijano.** Re Appeal No. **A-15-035**, variance application for **the elimination of the side yard setback as described in Section 35-310.01 to allow an addition to a home along the side property line,** subject property description the **Lots 21 and 22, Block 9, NCB 6431,** situated at **543 Gramercy Place**, applicant being **Cleofas David Cristan.** I move that the Board of Adjustment grant the applicant's request regarding Appeal No. **A-15-035**, 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 required setbacks to ensure equal access to air, light, and distance for fire separation. The proposed addition abuts an un-zoned right-of-way. It is unlikely that the requested variance will be contrary to the public interest as it does not encroach upon other single-family lots.** 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 construct the addition in a fashion that meets the required setbacks. The applicant has designed the addition to expand the kitchen in a straight line, an "in-line" addition. The existing kitchen wall is constructed on the property line, as identified by a recent survey. Because the addition will abut only a public right-of-way a literal enforcement of the ordinance may**

result in unnecessary hardship. The spirit of the ordinance is observed and substantial justice is done in that **the spirit of the ordinance calls for setbacks to ensure access to air, light, and to provide for fire separation. Ordinarily staff would recommend denial of a zero-lot line construction as it often leads to less enjoyment of adjacent private property. In this case, however, the addition is along a public right-of-way and, therefore, it is suggested that the spirit of the ordinance will be respected.** 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-6 NCD-2 AHOD" Residential Single-Family Alta Vista 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 unlikely to harm adjacent, conforming properties. The proposed addition abuts a public right-of-way and, therefore, will not pose a fire threat, nor will the requested variance lead to a decreased enjoyment of adjacent, conforming 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 **staff finds that the unique circumstance present in this case is that the proposed addition will run along a public right-of-way, not along adjacent private property. This condition is not created by the owner, nor merely financial in nature**. The motion was seconded by **Mr. Neff.**

AYES: Quijano, Neff, Velasquez, Britton, Rodriguez, Kuderer, Martinez, Camargo, Rogers, Ozuna
NAYS: None
ABSTAIN: Zuniga

THE VARIANCE WAS GRANTED

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 were returned in opposition.

Daniel Alvarado, applicant, stated the fence would provide security and protection for their family due to increase crime activity in the neighborhood. He also stated the neighbors are in favor of his fence. He further stated several neighbors have had several issues with law enforcement.

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 **Mr. Velasquez.** A motion was made by **Mr. Velasquez.** Re Appeal No. **A-15-024**, variance application for a **one foot variance to the four foot maximum fence height as described in Section 35-514 to allow a five foot tall predominately ornamental fence in the front yard,** subject property description **Lot 28, Block 2, NCB 14459,** situated at **1803 W Mally Boulevard**, applicant being **Daniel Alvarado.** I move that the Board of Adjustment grant the applicant's request regarding Appeal No. **A-15-024**, 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 **this is a corner property that has an adjacent higher fence opportunities and this is as a buffer is completely in character with the environment.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the property owner has described to us his need for heighten security as this seems to be an area with the heighten crime statistic.** The spirit of the ordinance is observed and substantial justice is done in that **this is a consideration that the board of adjustment is making labeling the owner of this property to secure his property to a heighten degree as seems to be necessary to his testimony.** 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 **this is a fence and is not something that will change the use of the person's property**. 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 **there are varying heights and this may be very appropriate as a buffer.** 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 **he has brought in crime stats that show, along with his own testimony, that shows that this is the solution for an ongoing problem in this community.** The motion was seconded by **Mr. Rodriguez**. The motion was seconded by **Mr. Rodriguez.**

AYES: Velasquez, Rodriguez, Quijano, Neff, Britton, Zuniga, Kuderer, Martinez, Camargo, Rogers, Ozuna
NAYS: None

THE VARIANCE WAS GRANTED.

There being no further discussion, meeting adjourned at 5:39 pm.

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

DATE: 2/2/15

ATTESTED BY: _____ DATE: 2-2-15
Executive Secretary