

**BOARD OF ADJUSTMENT  
OFFICIAL MINUTES  
July 21, 2014**

Members Present:

Andrew Ozuna  
Mary Rogers  
Alan Neff  
Gabriel Velasquez  
George Britton  
Maria Cruz  
Jesse Zuniga  
Roger Martinez  
John Kuderer  
Gene Camargo  
Lydia Fehr

Staff:

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

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**Call to Order**

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

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

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**CASE NO. A-14-078**

Applicant – Michael A Perez  
0.12 acre out of Lot 35, NCB 944  
330 Mission Road  
Zoned: “RM-4 H HS AHOD” Residential Mixed King William Historic Significant Airport Hazard Overlay District

The applicant is requesting 1) a 5-foot variance from the 5-foot setback for a structure on the east side property line and 2) a request from Section 35-516(g) for a 17-foot variance from the 20-foot setback from the sidewalk for a garage 3 feet from the sidewalk.

Tony Felts, Planner, presented background and staff’s recommendation of approval of the requested variance. He indicated 31 notices were mailed, 1 was returned in favor and none were returned in opposition and no response from the King William Neighborhood Association.

Angela Sherry, representative, stated the garage would be used to provide security and protection for their vehicles. She also stated they are aware they would have to park the vehicles inside the garage or out in the street and that they will not be allowed to block the sidewalk. She further stated that if the garage would be pushed further into the property, there would not be much open space in the backyard.

**The following citizens appeared to speak:**

Joyce Richter, citizen, spoke in favor

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-14-078 closed.

**MOTION**

A motion was made by **Mr. Martinez**. “Re Appeal No. **A-14-078**, the Board of Adjustment grant the application for **1) a 5-foot variance from the 5-foot setback for a structure on the east side property line and 2) a request from Section 35-516(g) for a 17-foot variance from the 20-foot setback from the sidewalk for a garage 3 feet from the sidewalk**, which is located at **330 Mission Street**, legally described as **0.12 acre out of Lot 35, NCB 944**, applicant being **Michael A Perez**. I move that the Board of Adjustment grant the applicant’s request regarding Appeal No. **A-14-078**, 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 preserve adequate access, access to light and air, and preserve public safety by ensuring proper separation of buildings. The 20-foot setback for garages is designed to keep sidewalks clear of vehicles parked in front of the garage. The proposed garage is located in an historic area, the development of which pre-dates any of the development codes which are currently in place today. The garage will be in line with the existing home, and no structures are impacted due to this being a corner lot. 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 **the yard on the subject property is not very deep, and the width of the property is approximately 50 feet. Given the depth of the proposed garage and the requirement that it be 20 feet back from the sidewalk, most of the applicant’s back yard would be occupied with either a garage or a driveway, leaving little, if any, open green space. Additionally, given the fact the single-family residence is already on the side property line, the addition of the garage would not affect the character of the lot as viewed from Stieren Street. As such, special conditions exist on the property to warrant the granting of the requested variances.** The spirit of the ordinance is observed and substantial justice is done in that **the spirit of the ordinance will be observed by granting the variance as the garage will not adversely affect other adjacent properties and will preserve open space in the rear yard.** 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 “RM-4” Residential Mixed 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 proposed garage will maintain the minimum 5-foot setback along the rear of the property. Additionally, given that this property is a corner lot, and the fact that the existing single-**

**family residence is already non-conforming (and that the variance will not increase the non-conformity), there should be no adverse impact to 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 **there are unique circumstances readily apparent to warrant the granting of the requested variances, and these circumstances are the result of the size and orientation of the property, and were not created by the owner.**” The motion was seconded by Ms. Cruz.

**AYES: Martinez, Cruz, Ozuna, Rogers, Fehr, Neff, Velasquez, Britton, Zuniga, Kuderer, Camargo**

**NAYS: None**

**THE VARIANCE WAS GRANTED.**

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**CASE NO. A-14-079**

Applicant – Eduardo Pelayo

Lots 1 & 2, Block 7, NCB 8317

4503 Mascota

Zoned: “R-5 AHOD” Residential Single-Family Airport Hazard Overlay District

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

**MOTION**

A motion was made by Ms. Rogers to continue this case until the next regularly scheduled meeting on August 4, 2014. The motion was seconded by Ms. Cruz.

**AYES: Martinez, Cruz, Ozuna, Rogers, Fehr, Neff, Velasquez, Britton, Zuniga, Kuderer, Camargo**

**NAYS: None**

**THE MOTION PASSES.**

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[REDACTED]  
**Mr. Zuniga made a motion to nominate Mr. Alan Neff to the seat of the Zoning Board of Adjustment on the Planning Technical Advisory Board Committee. Ms. Rogers seconded the motion with all board members voting in the affirmative.**

**Ms. Rogers made a motion to nominate Mr. Roger Martinez as an alternate to the seat of the Zoning Board of Adjustment on the Planning Technical Advisory Board Committee. Mr. Camargo seconded the motion with all board members voting in the affirmative**

[REDACTED]  
**Approval of the Minutes**

The July 7, 2014 minutes were approved with all members voting in the affirmative

[REDACTED]

There being no further discussion, meeting adjourned at 1:50 pm.

APPROVED BY: \_\_\_\_\_ OR Mary E Rogers  
Andrew Ozuna, Chairman Mary Rogers, Vice-Chair

DATE: \_\_\_\_\_

ATTESTED BY: [Signature] DATE: 8-8-14  
Executive Secretary