BOARD OF ADJUSTMENT
OFFICIAL MINUTES
June 2, 2014

Members Present:

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

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

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.

Ms. Rogers made a motion to move Case No A-14-045 to the beginning of the agenda. **Mr. Quijano** seconded the motion with all members voting in the affirmative.

CASE NO. A-14-057

Applicant – Ali Fahr
Lot 35, Block 1, NCB 14701
9665 Oakland Road
Zoned: "RE" Residential Estate District

The applicant is requesting a 3-foot variance from the 3-foot maximum fence height to allow a solid fence 6 feet in height in the front yard.

Tony Felts, Planner, presented background and staff's recommendation of denial of the requested variance. He indicated 14 notices were mailed, none were returned in favor and 5 were returned in opposition and the Oakland Estates Neighborhood Association is in opposition.

Mrs. Fahr, owner, was unable to attend the meeting and submitted her comments in writing which were read in to the record by staff.

Ali Fahr, applicant, stated the fence would provide some privacy for his family. He also stated he hired a contractor and did not realize a permit was not obtained.

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-14-056 closed.

MOTION

A motion was made by **Mr. Camargo**. "I would like to move that in Case **A-14-056**, the applicant being **Ali Fahr,** on property located at **9665 Oakland Road,** legally described as **Lot 35, Block 1, NCB 14701,** be granted a **3-foot variance in order to allow a 6 foot solid fence to be kept within the front yard setback.** Specifically, we find that such variance will not be contrary to the public interest in that **by the responses received by property owners within 300 feet, the majority of those responses are in fact opposed to this, including the neighborhood association.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **it is felt that there is no special conditions existing on the site that would warrant this variance to be granted.** The spirit of the ordinance is observed and substantial justice is done in that **the spirit of the ordinance will not be observed because there are no specific conditions rarely apparent to warrant the maintenance on this fencing.** Such variance will not authorize the operation of a use other **as permitted by the zoning classification and that is correct. The residential use of this property will be maintained.** Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located in that **it is felt by this member that it will. That in fact this is an open rural type subdivision in which this type of fencing is specifically in the front yard is not in keeping with the general area. The variance if approved will alter the essential character of the neighborhood. From the photos that have been shown to us, it totally is out of character from the surrounding area.** 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 find that are no unique circumstances existing on the side to warrant the granting of this variance**." The motion was seconded by **Mr. Quijano.**

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

THE VARIANCE WAS NOT GRANTED.

CASE NO. A-14-063

Applicant – SAT Northgate Village, Ltd.
Lot 7, Block 8, NCB 17258
5500 Babcock
Zoned: "C-3 AHOD" General Commercial Airport Hazard Overlay District

The applicant is requesting a 10-foot variance from the minimum 10-foot setback to allow a multi-tenant sign on the property line on Eckert Road.

Margaret Pahl, Senior Planner, presented background and staff's recommendation of approval of the requested variance. She indicated 14 notices were mailed, none were returned in favor and none were returned in opposition.

Stephanie Tease, representative, stated the property was bought under foreclosure and were limited to paperwork in regards to the existing sign. She also stated they are trying to reuse the existing structure to save some money. She further stated this would also prevent from digging up the foundation.

Tony Dublo, stated, if the sign is moved south, the visibility is very limited. He also stated the use of the electronic sign would not be profitable.

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-14-063 closed.

MOTION

A motion was made by **Mr. Rogers**. "Re Appeal No **A-14-063,** variance application for a **10-foot variance from the minimum 10-foot setback to allow a multi-tenant sign on the property line on Eckert Road,** located at **5500 Babcock,** subject property description **Lot 7, Block 8, NCB 17258,** applicant being **SAT Northgate Village, Ltd.** I move that the Board of Adjustment grant the applicant's request regarding this appeal for a sign variance to the subject property as described above, because the testimony presented to us, and the facts that we have determined show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship. Specifically, we find that the variance is necessary because strict enforcement of this article prohibits any reasonable opportunity to provide adequate signs on the site, considering the unique features of a site such as its dimensions, landscaping, or topography. A denial of the variance would probably cause a cessation of legitimate, longstanding active commercial use of the property. **The current signage has been in this location since the 1980's and landscaping and other area signage has been installed in the vicinity with its location in mind. Relocating the signage after 25 years could cause confusion. In addition, the applicant states that visibility from the intersection, over 300 feet away, is critical to their tenants. Preserving the ability to use the existing steel foundation eliminates the need to dig new**

footings, a task that would require extended lane closures and traffic disruption. After seeking one or more of the findings set forth in (1) or (2), the board finds that Granting the variance does not provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated. **The applicant states that the variance does not provide a special privilege because the surrounding businesses also have non-conforming signs which exceed the current standards for maximum height. In fact, much of the City's signage is non-conforming. A sign structure such as this one is very costly but also very sturdy; installed properly it will last more than 75 years, according to experienced sign contractors.** Granting the variance will not have a substantially adverse impact upon neighboring properties. **Granting the variance will allow the applicant to update the existing multi-tenant sign, bringing it into compliance with both height and square footage allowed by Chapter 28. The owner has recently remodeled the exterior of the commercial center and would like to also improve the signage to compliment the architectural design theme.** Granting the variance will not substantially conflict with the stated purposes of this article. **The legislative purposes of the adopted sign regulations are to provide minimum standards to protect the general public by regulating the design, construction, location, use and maintenance of out-door advertising signs. The owner is offering to reduce the height and square footage to comply with today's standards and only needs a variance of the setback. There no negative responses from those contacted and I am very familiar with this area. I'm delighted to see that this center is going to be upgraded and the sign to complement the center itself.**" The motion was seconded by **Mr. Rodriguez.**

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

THE VARIANCE WAS GRANTED.

CASE NO. A-14-064

Applicant – San Antonio Palio Partners, LLC
Lot 8, Block 8, NCB 19127
8438 State Hwy 151
Zoned: "MPCD GC-2 AHOD" Master Planned Community District Gateway Corridor Airport Hazard Overlay District

The applicant is requesting a 25% reduction in size for the second sign on a lot to allow a multi-tenant sign 40 feet in height on the same lot as an existing compliant sign.

Margaret Pahl, Senior Planner, presented background and staff's recommendation of approval of the requested variance. She indicated 4 notices were mailed, 0 were returned in favor and 0 were returned in opposition.

Andrew Perez, staff, stated they would like to apply for a sign master plan but need a variance for the height and square footage. He also stated the water main takes up most the space. He further stated there are several lots and would provide signage for any businesses going into these lots.

Brendon Hollier, applicant, stated their intent was to put a free-standing multi-tenant sign on 151. He also stated they are limited as to where the sign can be placed because of the location of the big water main on the property.

No citizens appeared to speak.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-14-064 closed.

MOTION

A motion was made by **Mr. Quijano**. "Re Appeal No **A-14-064,** variance application for a **25% reduction in size for the second sign on a lot to allow a multi-tenant sign 40 feet in height on the same lot as an existing compliant sign,** located at **8438 State Hwy 151,** subject property description **Lot 8, Block 8, NCB 19127,** applicant being **San Antonio Palio Partners, LLC.** I move that the Board of Adjustment grant the applicant's request regarding Appeal No. **A-14-064**, application for a sign variance to the subject property as described above, because the testimony presented to us, and the facts that we have determined show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship. Specifically, we find that the variance is necessary because strict enforcement of this article prohibits any reasonable opportunity to provide adequate signs on the site, considering the unique features of a site such as its dimensions, landscaping, or topography. A denial of the variance would probably cause a cessation of legitimate, longstanding active commercial use of the property. **The applicant states that the variance is needed to allow travelers time to identify the tenants and exit safely. In addition, the tenants were not anticipating the reduction as required for secondary signage. Strict enforcement of the secondary signage requirements further depreciates the viability of the commercial sites located to the rear.** After seeking one or more of the findings set forth in (1) or (2), the board finds that granting the variance does not provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated. **The applicant states that the variance does not provide a special privilege because most of the surrounding businesses are each located on individually platted parcels with the rights associated with those lots. In addition, the requested variance is not to allow a sign larger than would be allowed for other multi-tenant signs within the corridor or along the freeway.** Granting the variance will not have a substantially adverse impact upon neighboring properties. **Granting the variance will allow the applicant to install multi-tenant signage that would be permitted just a few feet further to the west if a utility had not needed that location.** Granting the variance will not substantially conflict with the stated purposes of this article. **The legislative purposes of the adopted sign regulations are to provide minimum standards to protect the general public by regulating the design, construction, location, use and maintenance of out-door**

advertising signs. The owner is requesting approval to install signage on an easement on an adjoining lot without reducing it by 25% as required in Section 28-241 of the Sign Code. The owner has submitted an application for a sign master plan to allow the overall project to be considered as a single premise, share signage and reduce sign clutter, consistent with the stated purpose." The motion was seconded by **Ms. Rogers.**

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

THE VARIANCE WAS GRANTED.

CASE NO. A-14-065

Applicant – Raul Rodriguez
Lot 40, Block 41, NCB 18820
8339 Beauty Oaks
Zoned: "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District

The applicant is requesting 1) a 7-foot, 6-inch variance from the 10-foot required front yard setback to allow a structure 2 feet, 6 inches from the front property line; and 2) a 4-foot, 7-inch variance to allow a structure 5 inches from the side property line.

Tony Felts, Planner, presented background and staff's recommendation of denial of the requested variance. He indicated 40 notices were mailed, one was returned in favor and none were returned in opposition.

Raul Rodriguez, applicant, stated the carport would provide protection for the vehicles from the sun. He also stated he was not aware of the setbacks and also had to replat his property in order to ask for this variance. He further stated his wife hired the contractor and assumed he would build the carport according to code.

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-14-065 closed.

1ST MOTION

A motion was made by **Mr. Martinez**. "Re Appeal No. **A-14-065**, variance application for **a 4-foot, 6-inch variance from the 10-foot required front yard setback to allow a structure 5 feet, 6 inches from the front property line,** subject property description the **Lot 40, Block 41, NCB 18820,** situated at **8339 Beauty Oaks**, applicant being **Raul Rodriguez.** I move that the Board of Adjustment grant the applicant's request regarding Appeal No. **A-14-065**, 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 structure abuts the neighboring property's required side yard area; additionally, the structure projects into the required front yard setback. There are no other examples of such extreme incursions into either the side or front setbacks on this street. By allowing the addition to remain, it may adversely affect the neighboring properties by not allowing for adequate access or separation.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the existing structure is equipped with an attached garage, thus there can be little argument for the need for more covered parking. Additionally, there are no special conditions readily apparent to warrant the granting of the variance.** The spirit of the ordinance is observed and substantial justice is done in that **the spirit of the ordinance will not be observed by granting the variance as the carport and balcony structure, as constructed, do not provide for adequate separation distance between the subject property and the adjacent property. Additionally, the structure is out of place with the existing development pattern of this street.** 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" Residential Single-Family 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 requested variance, if approved, may injure the adjacent properties due to inadequate separation distances; additionally, the structure may alter the development pattern of the area.** 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 no unique circumstances readily apparent to warrant the granting of the requested variances.**" The motion was seconded by **Mr. Camargo.**

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

THE VARIANCE WAS GRANTED.

2ND MOTION

A motion was made by **Mr. Martinez**. "Re Appeal No. **A-14-065**, variance application for **a 4-foot, 7-inch variance to allow a structure 5 inches from the side property line,** subject property description the **Lot 40, Block 41, NCB 18820,** situated at **8339 Beauty Oaks**, applicant being **Raul Rodriguez.** I move that the Board of Adjustment grant the applicant's request regarding Appeal No. **A-14-065**, 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 structure abuts the neighboring property's required side yard area; additionally, the structure projects into the required front yard setback. There are no other examples of such extreme incursions into either the side or front setbacks on this street. By allowing the addition to remain, it may adversely affect the neighboring properties by not allowing for adequate access or separation.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the existing structure is equipped with an attached garage, thus there can be little argument for the need for more covered parking. Additionally, there are no special conditions readily apparent to warrant the granting of the variance.** The spirit of the ordinance is observed and substantial justice is done in that **the spirit of the ordinance will not be observed by granting the variance as the carport and balcony structure, as constructed, do not provide for adequate separation distance between the subject property and the adjacent property. Additionally, the structure is out of place with the existing development pattern of this street.** 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" Residential Single-Family 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 requested variance, if approved, may injure the adjacent properties due to inadequate separation distances; additionally, the structure may alter the development pattern of the area.** 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 no unique circumstances readily apparent to warrant the granting of the requested variances.**" The motion was seconded by **Mr. Camargo.**

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

THE VARIANCE WAS GRANTED.

CASE NO. A-14-066

Applicant – Martin Sanchez
Lot 5, NCB 6923
1834 Texas
Zoned: "R-4 NCD-8 AHOD" Residential Single-Family Woodlawn Lake Neighborhood Conservation Airport Hazard Overlay Districts

The applicant is requesting a variance from the Woodlawn Lake Neighborhood Conservation District restrictions regarding preserving roof pitch to allow a hip roof on a building that previously had a flat roof.

Margaret Pahl, Senior Planner, presented background and staff's recommendation of denial of the requested variance. She indicated 28 notices were mailed, 3 were returned in favor and none were returned in opposition and the Woodlawn Lake Neighborhood Association is in opposition.

Martin Sanchez, applicant, stated the flat roof continues to leak when it rains. He also stated the repairs on this roof have been enormous. He was instructed by a contractor that a flat roof will continuous leak. He further stated he was not aware of permits and the NCD regulations.

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-14-066 closed.

MOTION

A motion was made by **Mr. Martinez.** Re Appeal No. **A-14-066**, variance application **from the Woodlawn Lake Neighborhood Conservation District restrictions regarding preserving roof pitch to allow a hip roof on a building that previously had a flat roof,** subject property description the **Lot 5, NCB 6923,** situated at **1834 Texas**, applicant being **Martin Sanchez.** I move that the Board of Adjustment grant the applicant's request regarding Appeal No. **A-14-066**, 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 home is located in the boundaries of a NCD, a regulatory overlay designed to preserve and protect unique character defining features. The requested variance would irrevocably harm the original design of the home and would be contrary to the public interest.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **literal enforcement of the ordinance would require that the applicant dismantle the recent roofing and replace it with a flat roof, similar to the original roof. The Board will have to determine if the literal enforcement of the ordinance results in an unnecessary hardship.** The spirit of the ordinance is observed and substantial justice is done in that **for each requested variance, the Board must determine the "spirit" of the ordinance as contrasted with the "strict letter" of the requirement. The applicant is hoping that their previous failed attempts to prevent roof leaks will be sufficient to warrant a variance from the prohibition to changing roof pitch.** Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the subject property is located in that **the requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the "R-4 NCD-8 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 **an inventory of roof pitch**

throughout the neighborhood was completed prior to the adoption of the conservation district regulations. While the district is eclectic with regards to roof pitch, this particular style of architecture includes the flat roof as an essential character component. 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 subject property has been owned and occupied by the applicants for 22 years and according to their application has always had roof leak issues. Staff has found however that there are flat roof specialists in the area and recent technological advances to resolve flat roof issues. Therefore, the applicant has created a self-imposed hardship, by installing a roof without a permit.**" The motion was seconded by **Mr. Velasquez.**

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

THE VARIANCE WAS NOT GRANTED.

Approval of the Minutes

Mr. Velasquez made a motion to approve the May 19, 2014 minutes. **Mr. Quijano** seconded the motion with all members voting in the affirmative

There being no further discussion, meeting adjourned at 3:29 pm.

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

DATE: 6/16/14

ATTESTED BY: _____ DATE: 6-20-14
Executive Secretary