

**BOARD OF ADJUSTMENT  
OFFICIAL MINUTES  
March 3, 2014**

Members Present:

Andrew Ozuna  
Mary Rogers  
Frank Quijano  
Alan Neff  
Gabriel Velasquez  
George Britton  
Maria Cruz  
Jesse Zuniga  
Frank Kuderer  
Roger Martinez

Staff:

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

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**Call to Order**

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

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

Ms. Rogers made a motion to move Case No A-14-033 to the end of the agenda. Mr. Zuniga seconded the motion with all board members voting in the affirmative.

Ms. Rogers made a motion to move Case No A-14-032 to the beginning of the agenda. Ms. Cruz seconded the motion with all members voting in the affirmative.

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**Pursuant to Texas Government Code, Section 55.071, Consultation with Attorney. Board members recessed into Executive session at 1:05 pm to discuss the following:**

- 1. Consultation with attorney regarding the case titled Sarosh Management and East Central I.S.D. v. San Antonio Board of Adjustment and possible action**
- 2. Review and discussion of January 13, 2014 minutes and possible action.**

**Board members reconvened to the board room at 1:25 pm from Executive Session and reported no action taken on Item #2.**

**Mr. Velasquez made a motion to authorize legal council for the Board of Adjustments to proceed with their appeal regarding the Sarosh Management and East Central ISD v. San Antonio Board of Adjustment. The motion was seconded by Mr. Kuderer.**

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

**NAYS:** None

**MOTION PASSES.**

**CASE NO. A-14-032**

Applicant – Cynthia Neal  
Lot 15, Block 5, NCB 10186  
103 Gazel Drive  
Zoned: “R-4 AHOD” Residential Single-Family Airport Hazard Overlay District

The applicant is requesting a special exception to allow a four-year renewal of a special exception for a one-operator beauty shop in a single family home

Tony Felts, Planner, presented background and staff’s recommendation of approval of the special exception for a period of four years. He indicated 26 notices were mailed, 7 were returned in favor and none were returned in opposition.

Cynthia Neal, applicant, stated she has been in operation for several years.

**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-14-032 closed.

**MOTION**

A motion was made by **Ms. Rogers**. “Re Appeal No **A-14-032**, special exception to **allow a four-year renewal of a special exception for a one-operator beauty shop in a single family home**, subject property description **Lot 15, Block 5, NCB 10186**, located at **103 Gazel Drive**, applicant being **Cynthia Neal**. I move that the Board of Adjustment grant the applicants request regarding Appeal No. **A-14-032**, application for a Special Exception for the subject property as previously described, 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 proposed one-operator beauty salon does 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 does provide a valuable and needed public service to the residents of the neighborhood and it does not negatively impact surrounding properties in that there were no witnesses here to say that there was anything objectionable to this applicant having the shop**. The neighboring property will not be substantially injured by such proposed use in that **the subject property will be primarily continued to be used as a single-family residence**.

**The beauty shop occupies only a small part of the structure, and the fact that a beauty shop is being operated from the home is likely not to 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 along that area. 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 does not weaken these purposes and it does not weaken the regulations established for this district. This will be for a period of 48 months with hours of operation not to exceed twenty-nine and half hours per week, Mondays 9:30 until 3:00 pm, Wednesdays 9:00 am until 6:00 pm, Thursdays 9:00 until 11:00 am, Fridays 8:00 am until 3:00 pm, and Saturdays 8:00 am until 2:00 pm. The shop will be closed on Tuesdays and Sundays. This shop will be required to follow all regulations of the state of Texas for operating a beauty shop by the operator with all required licenses and so forth issued.”** The motion was seconded by Ms. Cruz.

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

**NAYS: None**

**THE SPECIAL EXCEPTION WAS GRANTED.**

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**CASE NO. A-14-018**

Applicant – Jesus Salazar

The west 50 feet of the North one-half of Tract 206, NCB 7847

654 West Pyron Avenue

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

The applicant is requesting 3-foot variance from the 5-foot minimum side yard to allow an attached carport 2 feet from the west side property line.

Tony Felts, Planner, presented background and staff’s recommendation of denial variance. He indicated 21 notices were mailed, one was returned in favor and none were returned in opposition.

Frank Rendon, representative, stated there was an existing porch and the home owner was just merely renovating the porch. He also stated there will be gutters installed. He further stated they didn’t realize the 3 foot setback would be a problem since the porch was existing.

**The following citizens appeared to speak:**

Thomas Perez, citizen, spoke in opposition.

Mayo Galindo, 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-14-018 closed.

## MOTION

A motion was made by **Ms. Rogers**. “Re Appeal No. **A-14-018**, variance application for a **3-foot variance from the 5-foot minimum side yard to allow an attached carport 2 feet from the west side property line**, subject property description **the west 50 feet of the North one-half of Tract 206 NCB 7847**, situated at **654 West Pyron Avenue**, applicant being **Jesus Salazar**. I move that the Board of Adjustment grant the applicant’s request regarding Appeal No. **A-14-018**, 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 side yard area. By allowing the addition to remain, it may adversely affect the neighboring property by not allowing for adequate access for maintenance of the structure.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the subject property is sufficiently deep to allow the construction of a compliant carport or garage in the rear of the main structure. Likewise, there is sufficient room for the applicant to access the rear of the property with an automobile, and therefore, any garage or carport. As such, no special conditions exist on the property to warrant the granting of a 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, as constructed, does not provide for adequate room to access the structure for maintenance and there are adequate alternatives to the structure’s current placement.** 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 appropriate use of the adjacent property to the south because there is not adequate space to maintain the structure. It should be noted that, while there are other carports to the side of homes in the area, it is unknown whether these carports are in conformance with the requirements of the UDC.** 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. Kuderer**.

**AYES: Rogers, Zuniga, Velasquez, Britton**

**NAYS: Kuderer, Quijano, Martinez, Neff, Cruz, Ozuna**

**THE VARIANCE WAS NOT GRANTED.**

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**CASE NO. A-14-026**

Applicant – Lisa A Stafford & Juan Olguin

Lot 14 Block 38 NCB 7820

205 West Huff

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

The applicant is requesting 1) a 1-foot fence variance from the 6-foot maximum height to allow a 7-foot fence along the side and rear property lines; 2) a variance to allow a sheet, roll or corrugated metal for use as fencing material; 3) a 5-foot variance from the 5-foot minimum side yard setback to allow a garage on the east property line

Osniel Leon, Planner, presented background and staff’s recommendation of denial of the requested variance. He indicated 27 notices were mailed, none were returned in favor and none were returned in opposition.

**MOTION**

A motion was made by **Ms. Rogers to continue this case until the next available meeting, March 17, 2014.** The motion was seconded by **Ms. Cruz.**

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

**NAYS: None**

**THE MOTION PASSES.**

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**Board members recessed for 5 minutes.**

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**CASE NO. A-14-027**

Applicant – Scott Ruch

Lot 1, Block 110, NCB 18820

9550 Westover Hills Boulevard

Zoned: “C-2 AHOD” Commercial Airport Hazard Overlay District

The applicant is requesting a 1) a variance from Section 35-514(d) of the UDC for a 4-foot variance from the 4-foot maximum allowed height to allow a predominantly open fence 8 feet in height within the front yard; and 2) a variance from Section 35-514(d) of the UDC for a 2-foot variance from the 6-foot maximum allowed height to allow a predominantly open fence 8 feet in height within the side and rear yards.

Tony Felts, Planner, presented background and staff's recommendation of approval of the requested variance. He indicated 5 notices were mailed, none were returned in favor and none were returned in opposition

John Jacobs, representative, stated fence would provide security for the data center. He also stated the curve on the fence prohibits trespassers from climbing the fence.

**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-14-027 closed.

**MOTION**

A motion was made by **Mr. Quijano**. "Re Appeal No. **A-14-027**, variance application for **1) a variance from Section 35-514(d) of the UDC for a 4-foot variance from the 4-foot maximum allowed height to allow a predominantly open fence 8 feet in height within the front yard; and 2) a variance from Section 35-514(d) of the UDC for a 2-foot variance from the 6-foot maximum allowed height to allow a predominantly open fence 8 feet in height within the side and rear yards**, subject property description **Lot 1, Block 110, NCB 18820**, situated at **9550 Westover Hills Boulevard**, applicant being **Scott Ruch**. "I move that the Board of Adjustment grant the applicant's request regarding Appeal No. **A-14-027**, 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 **data centers similar to the one under construction at the site are common in the area, and the Board, recognizing the unique security concerns presented in their operations, has approved similar variances in the vicinity for data centers**. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **because of the unique security concerns present with the operation of a data center, a literal enforcement of the ordinance may result in an unnecessary hardship**. The spirit of the ordinance is observed and substantial justice is done in that **the Board has in the past recognized that physical security concerns are present at data centers in the area, and as such, the spirit of the ordinance will be observed**. Additionally, **the proposed fence will be predominantly open, and will not obstruct clear vision areas and line of site**. 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" Commercial 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 requested variance, if approved, will not substantially injure adjacent conforming properties, as the Board has approved similar fences in the vicinity.** 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 are rather due to unique physical security concerns that result from the operation of a data center.**” The motion was seconded by Ms. Cruz.

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

**NAYS: None**

**THE VARIANCE WAS GRANTED**

**CASE NO. A-14-030**

Applicant – Dennis Brownley  
Lots 14, Block 28, NCB 17643  
9251 Wind Dancer  
Zoned: “R-4 AHOD” Residential Single-Family Airport Hazard Overlay District

The applicant is requesting a 5-foot variance from the 20-foot minimum rear yard setback to allow an addition 15 feet from the rear property line.

Tony Felts, Planner, presented background and staff’s recommendation of denial the requested variances. He indicated 37 notices were mailed, one was returned in favor and none were returned in opposition and no response from The Enclave at Westover Hills HOA Neighborhood Association.

Dennis Brownley, applicant, stated he recently purchased the home with the intent of adding the room to the rear of the house. He also stated he needs the extra ceiling space for his hobby. He further stated this room would be for his trophies.

**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-14-030 closed.

**MOTION**

A motion was made by **Mr. Kuderer**. “Re Appeal No. **A-14-030**, variance application for a **variance from Table 310-1 of the UDC for a 5-foot variance from the 20-foot minimum rear yard setback to allow an addition 15 feet from the rear property line**, subject property

description **Lot 14, Block 28, NCB 17643**, situated at **9251 Wind Dancer**, applicant being **Dennis Brownley**. I move that the Board of Adjustment grant the applicant's request regarding Appeal No. **A-14-030**, 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**. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the subject property is sufficiently deep to allow the construction of a compliant addition to the rear, and the applicant has provided any documentation that it would not be a problem for him to put the building within the setback guidelines with the HOA association**. 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 there are a special conditions and circumstances regarding this particular applicant**. 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 not injure the appropriate use of the adjacent properties on either side of the structure**. 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 **Ms. Rogers**.

**AYES: Kuderer, Rogers, Martinez, Velasquez, Quijano Cruz, Neff, Britton, Ozuna**

**NAYS: Zuniga**

**THE VARIANCE IS GRANTED.**

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**CASE NO. A-14-031**

Applicant – 302 Josephine, LTD.

Lot 14, Block 18, NCB 975

302 E Josephine Street

Zoned: "IDZ RIO-2 AHOD" Infill Development Zone River improvements Overlay Airport Hazard Overlay District

The applicant is requesting a 12.5 foot variance from the minimum 20-foot setback to allow three garages with varying setbacks the shortest of which is 7.5 feet from the property line, subject property description Lot 14, Block 18, NCB 975, situated at 302 E Josephine Street.

Margaret Pahl, Senior Planner, presented background and staff's recommendation of approval the requested variance. She indicated 10 notices were mailed, no one returned in favor and none were returned in opposition and no response from the Tobin Hill Neighborhood Association.

Trey Jacobson, applicant, stated the owner is proposing to build seven units to include three live/work units. He also stated the structure is going to have an urban look. He further stated the zoning was changed to IDZ to facilitate this project.

**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-14-031 closed.

**MOTION**

A motion was made by **Mr. Kuderer**. "Re Appeal No. **A-14-031**, variance application for a **12.5 foot variance from the minimum 20-foot setback to allow three garages with varying setbacks the shortest of which is 7.5 feet from the property line**, subject property description **Lot 14, Block 18, NCB 975**, situated at **302 E Josephine Street**, applicant being **302 E Josephine, Ltd.** "I move that the Board of Adjustment grant the applicant's request regarding Appeal No. **A-14-031**, 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 **public's interest in the minimum 20-foot garage setback is to provide a parking stall in the driveway without blocking the sidewalk when access to the garage is unavailable. When the setback is severely reduced, as proposed in this scenario, parking in the driveway is impossible. The property was rezoned to IDZ to facilitate a mixed use development and waive off-street parking requirements. The applicant's intent to provide some off-street parking within the proposed garages and seeking relief from the required setback is not contrary to the public's interest.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the proposed development does not have to meet off-street parking requirements, however the applicant would like to provide parking options and enforcement of the setback would eliminate this option.** The spirit of the ordinance is observed and substantial justice is done in that **in this case, the property was rezoned to IDZ to facilitate its redevelopment. Modifying the garage setback is consistent with this intent.** 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 "IDZ-RIO-2 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 proposed setbacks are short enough that the driveways will never be used for parking. Therefore the variance will not alter the character of the district.** The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique

circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located in that **the parcel measures 86 feet in width and contains several mature Pecan trees. The owner is requesting a reduction in the required garage setback to facilitate protected parking for three of the residential units.**” The motion was seconded by Mr. Quijano.

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

**NAYS: None**

**THE VARIANCE WAS GRANTED**

Board members recessed for five minutes.

**CASE NO. A-14-034**

Applicant – Brown & Ortiz  
E 150 ft Lot 15, Block 15 and the E 135 ft Lot 14, Block 14, NCB 1067  
150 Humphrey Avenue  
Zoned: “IDZ NCD-6 AHOD” Infill Development Zone, Mahncke Park Neighborhood Conservation District Airport Hazard Overlay District

The applicant is requesting 1) a 25-foot variance from the minimum 50-foot lot width to allow new single family lots at least 25 feet wide; 2) a 1-story variance from the maximum 2-story limitation to allow new single family homes with 3 stories; 3) a variance from the location and orientation standards to allow two attached garages facing the public street; 4) a 16-foot variance from the minimum 20-foot garage setback to allow two garages 4-feet from the property line; 5) a variance from the requirement that the front façade face the public street to allow five single family homes oriented toward a pedestrian courtyard; and 6) a 6-foot variance from the minimum 10-foot separation to allow dwellings 4 feet apart

Margaret Pahl, Senior Planner, presented background and staff’s recommendation of approval the requested variances. She indicated 11 notices were mailed, 1 was returned in favor and 4 were returned in opposition and no written response from Mahncke Park & Westfort Alliance Neighborhood Association.

Daniel Ortiz, applicant, stated the surrounding properties will not allow for cut through traffic. He also stated there is a 3 store multifamily development already existing on the western edge of the property. He further stated the property was recently rezoned to IDZ.

**The following citizens appeared to speak:**

Robert Hunt, citizen, spoke in favor.

David Lasery, Mahncke President, 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-14-034 closed.

## MOTION

A motion was made by **Mr. Quijano**. “Re Appeal No. **A-14-034**, variance application for **1) a 25-foot variance from the minimum 50-foot lot width to allow new single family lots at least 25 feet wide; 2) a 1-story variance from the maximum 2-story limitation to allow new single family homes with 3 stories; 3) a variance from the location and orientation standards to allow two attached garages facing the public street; 4) a 16-foot variance from the minimum 20-foot garage setback to allow two garages 4-feet from the property line; 5) a variance from the requirement that the front façade face the public street to allow five single family homes oriented toward a pedestrian courtyard; and 6) a 6-foot variance from the minimum 10-foot separation to allow dwellings 5 feet apart**, subject property description **E 150 ft Lot 15, Block 15 and the E 135 ft Lot 14, Block 14, NCB 1067, situated at 150 Humphrey Avenue**, applicant being **Brown & Ortiz**. “I move that the Board of Adjustment grant the applicant’s request regarding Appeal No. **A-14-034**, 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 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 property is surrounded by taller, high-density housing and is located on the fringe of the neighborhood conservation district. While many provisions of the NCD must be modified to allow the project to be constructed, the variances would not be contrary to the public interest.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the applicant purchased the property for a different type of project not typical in this area. A site design was prepared for review and approval of a zoning map amendment and later determined that there were several standards that prevented its construction as approved.** The spirit of the ordinance is observed and substantial justice is done in that **the spirit of the NCD is based on preserving the continuity of the single-family home on a 50 foot wide lot found on most of the blocks in the neighborhood. This characteristic is not present in this part 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 “IDZ-NCD-6 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 **in this isolated location, surrounded by three and four story apartment buildings, the project will not alter the essential 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 property includes some heritage trees that are proposed for protection. The site improvement plan was designed to satisfy as many of the NCD goals as possible, orienting homes toward the public streets,**

hiding the garages in the back and providing pedestrian connectivity.” The motion was seconded by Mr. Zuniga.

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

**NAYS: None**

**THE VARIANCES WERE GRANTED**

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**CASE NO. A-14-033**

Applicant – Veronica Valdez

Block 1, Lots 28-37; Block 2, Lots 1-12 and Lots 14-24; Block 3, Lots 1-11 and Lots 17-27; Block 4, Lots 1-12 and Lots 17-27; Block 5, Lot 16; Block 6, Lots 1-4 and Lots 13-15; Block 8, Lots 1, 8, & 9; NCB 12509

Generally located at 9819 Walhalla Avenue

Zoned: “R-4 AHOD” Residential Single-Family Airport Hazard Overlay District

The applicant is requesting a 7-foot variance from the minimum 20-foot setback to allow a 13-foot rear yard setback on up to 90 of the 166 lots within the Pleasanton Farms Subdivision.

Margaret Pahl, Senior Planner, presented background and staff’s recommendation of approval the requested variance. She indicated 52 notices were mailed, one returned in favor and none were returned in opposition.

Roger Arriaga, applicant, stated the variance would allow them to build one story houses. He also stated the zoning works very well but the way it was design they would need a variance. He further stated they would like to offer different styles of homes in the subdivision.

**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-14-033 closed.

**MOTION**

A motion was made by **Mr. Kuderer**. “Re Appeal No. **A-14-033**, variance application for a **7-foot variance from the minimum 20-foot setback to allow a 13-foot rear yard setback up to 90 of the 166 lots within the Pleasanton Farms Subdivision**, subject property description **Block 1, Lots 28-37; Block 2, Lots 1-12 and Lots 14-24; Block 3, Lots 1-11 and Lots 17-27; Block 4, Lots 1-12 and Lots 17-27; Block 5, Lot 16; Block 6, Lots 1-4 and Lots 13-15; Block 8, Lots 1, 8, & 9; NCB 12509, generally located at 9819 Walhalla Avenue**, applicant being **Veronica Valdez**. “I move that the Board of Adjustment grant the applicant’s request regarding Appeal No. **A-14-033**, 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 subdivision is surrounded on three sides by streets; only their northern boundary is shared with other residential lots. No variance is requested on these 25 lots, eliminating the impact on neighboring properties. Therefore the variance is in the public interest.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the applicant states that literal enforcement of the 20-foot rear setback would limit the single-story homes in the project to only 21 of the 166 lots.** The spirit of the ordinance is observed and substantial justice is done in that **in this case, the two-story homes will satisfy the minimum 20-foot setback, but the single-story homes with the proposed variance would be 7 feet closer to the shared property line. Given that the majority of residential districts (8 of 14) allow a 10-foot rear setback, the spirit of the ordinance may be observed by allowing the proposed 13-foot rear setback.** 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” 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 smaller setbacks will be interior to the community and likely not have a negative impact on surrounding conforming homes as we heard testimony from the gentleman above. All of the other required setbacks will be satisfied.** 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 lots are a reasonable depth at 100 feet but the minimum garage setback is forcing the homes further back than the 10-foot front setback. Balancing the competing setbacks, the applicant is requesting a modification of the rear setback.”** The motion was seconded by Mr. Quijano.

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

**NAYS: Neff, Velasquez**

#### **THE VARIANCES WERE NOT GRANTED**

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

The February 3, 2014 minutes were approved with all members voting in the affirmative.

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