

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
May 20, 2013**

Members Present:

Michael Gallagher
Andrew Ozuna
Frank Quijano
Edward Hardemon
Helen Dutmer
George Britton
Jesse Zuniga
Mary Rogers
John Kuderer
Gene Camargo

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

CASE NO. A-13-038

Applicant – Joel G Tonche
Lot 33, Block 32, NCB 17512
8752 Seven Seas Drive
Zoned: “R-6 AHOD” Residential Airport Hazard Overlay District

The applicant is requesting a special exception to allow a 6-foot high ornamental-iron front yard fence.

Tony Felts, Planner, presented background and staff’s recommendation of approval of the requested special exception. He indicated 43 notices were mailed, 2 were returned in favor and 2 were returned in opposition and no response from the Southwest Community Association.

Joel Tonche Gonzales, applicant, stated he has lived there for thirteen years and just recently has had problems with broken car windows, vehicle theft, and graffiti on the vehicles. He also stated this fence would provide security and safety for his residence. The fence would keep trespassers out of his property. He further stated they are several stray dogs in the area that enter his property and they fear of these dogs attacking his family.

The following citizens appeared to speak:

Abraham Walker, citizen, spoke in favor.

Everyone present for or against having been heard and the results of the written notices having been received, the Chair declared the public hearing of Case No. A-13-038 closed.

MOTION

A motion was made by **Ms. Rogers**. “Re Appeal No. **A-13-038**, application for a **special exception to erect a 6-foot Ornamental-Iron Front Yard fence**, for applicant **Joel G. Tonche**, at **8752 Seven Seas Drive, Lot 33, Block 32, NCB 17512**. I move that the Board of Adjustment grant the applicant’s request regarding this for the subject property as described above because the testimony and evidence presented to us and the facts that we have determined show that this Special Exception meets the requirements listed in UDC 35-399.04. The special exception will be in harmony with the spirit and purpose in that **the requested plan, meeting all of the design requirements is established in Section 35-399.04 of the UDC, therefore it is in harmony with the spirit and purpose of this chapter**. The public welfare and convenience will be substantially served in that **the public welfare and convenience will be substantially served by allowing the applicant to secure and protect the property and as much as he had numerous vandalism occurrences at the site**. The neighboring property will not be substantially injured by such proposed use in that **by granting this special exception the design of the fence does not encroach on the neighboring properties, nor does it cause any undo hardship. Other properties in the vicinity do already have these higher yard iron fences**. 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 **there are several examples of ornamental-iron front yard fences, of varying heights, within the surrounding neighborhood**. **By granting the applicant’s request for a special exception, the proposed fence will maintain the harmony and character of the district**. The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district in that **the requested special exception will not weaken the general purpose of the “R-6” Residential Single-Family zoning**.” The motion was seconded by **Mr. Hardemon**.

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

NAYS: None

THE SPECIAL EXCEPTION WAS GRANTED.



CASE NO. A-13-039

Applicant – Guy Floyd

Lot 48, Block 29, NCB 16386

8 Villers St Paul

Zoned: “R-6 PUD MLOD MSAO-1” Residential Planned Unit Development, Military Lighting and Military Sound Attenuation Overlay Districts

The applicant is requesting a 2,700 foot variance from the 2,500 square foot maximum floor area allowed for an accessory structure to allow a fully enclosed sort court with 5,200 square feet of floor area.

Margaret Pahl, Senior Planner, presented background and staff’s recommendation of approval of the requested variance. She indicated 16 notices were mailed, one was returned in favor and 2 were returned in opposition and no response from the Dominion Neighborhood Association.

Guy Floyd, representative, stated the building permit has been approved and is awaiting finalization of the variance. He also stated the sports court only contains a drinking fountain and does not include a restroom or closet area. He further stated that if the variance were denied, he would still be able to obtain a building permit to connect the sports court with residence.

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-13-039 closed.

MOTION

A motion was made by **Mr. Camargo**. “I would move that in Case A-13-039, the applicant being **Guy Floyd**, on property legally described as **Lot 48, Block 29, NCB 16386**, also known as **8 Villers St. Paul Drive**, be granted a **2,700 square foot variance from the 2,500 square foot maximum floor area allowed as an accessory structure to allow a fully-enclosed sport court with 5,200 square-feet of floor area**. **Based on information presented to us by staff and the applicant in this particular case it is felt in this member’s opinion that the variance should be granted**. Specifically, we find that such variance will not be contrary to the public interest in that **the interests of this group are generally represented by the Architectural Review Committee which has approved the design of all of the improvements proposed for this property**. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **given the overall size of the parcel, the limitation of all accessory structures to 2,500 square feet is equivalent to only 7% of the total lot area**. **It has been pointed out that structures of this size on property of this size with residences of this extreme square footage are not in common in the general area**. The spirit of the ordinance is observed and substantial justice is done in that **the applicant claims that the size limitation is primarily for much smaller lots and given the coverage calculation, this assertion seems to be logical**. 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 other than that which is allowed in the single-family zoning classification. If there are concerns that some other use may be made of this property, it has been pointed out by legal staff that there are zoning restrictions. I would assume even stronger deed restrictions that apply to this property that would ensure that the property or the structure is not used contrary to those regulations. 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 accessory structure is designed to blend into the upscale streetscape by resembling a home.** 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 is sloping, with a change in elevation of 15 feet over the length of the property. This topography creates the unique circumstances which generally justify consideration of a variance request. It was pointed out by owner's representative that the other alternative is to attach this enclosed sports court to the main residence and thus a variance would not be required, that in doing so it would create more of a visual obstruction to those property owners that are concerned about the height of this structure."** The motion was seconded by Mrs. Dutmer.

AYES: Camargo, Dutmer, Kuderer, Quijano, Rogers, Hardemon, Britton, Ozuna, Gallagher

NAYS: Zuniga

THE VARIANCE WAS GRANTED.

CASE NO. A-13-041

Applicant – Facility Solutions Group
Lot 16, NCB 919
1330 S Laredo
Zoned: "I-2 AHOD" Heavy Industrial Airport Hazard Overlay District

The applicant is requesting a 40-foot variance from the maximum sign height of 60-feet for signage along a freeway to allow a 100-foot tall sign.

Margaret Pahl, Planner, presented background and staff's recommendation of denial of the requested variance. She indicated 12 notices were mailed, none were returned in favor and none were returned in opposition.

Nick Harris, representative, stated there are currently two signs on the property. He also stated McDonald's is going into the new modern signs and remodeling. He further stated the height variance would be at eye level on the Laredo exit due to the peak.

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-13-041 closed.

MOTION

A motion was made by **Mr. Camargo**. "I would move that the Board of Adjustment in Case A-013-041, on property located at 1330 S Laredo, the applicant being **Facility Solutions Group**, on property legally described as **Lot 16, NCB 919**, be granted a **25-foot variance from the 60-foot maximum sign height for signage along a freeway to allow a 85-foot tall sign to be erected with a condition that applicant's representative as stated that two non conforming signs would be removed**. 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 **and in this case my feeling is the topography in that being the congested overhead portion of the freeway at this point and the fact that the applicant has stated that an 85-foot height sign would give that opportunity to have the visibility of the McDonald's above the freeway and therefore recommend approval**. Granting the variance will not have a substantially adverse impact on neighboring properties in that the **granting the variance would allow relocation of pole signs to a different location, and removal two nonconforming signs that are nonconforming in reference to height and as has been stated are some forty-five years old which gives some concern to the structural stability of those signs and therefore I think is to the benefit of the community to have those removed**." The motion was seconded by **Mr. Hardemon**.

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

NAYS: None

THE VARIANCE WAS GRANTED.

Board members recessed for 10 minutes.

CASE NO. A-13-042

Applicant – Chandler Signs
Lot 11, Block 7, NCB 357
516 West Cypress Street
Zoned: "C-2P AHOD" Commercial Pedestrian Airport Hazard Overlay District

The applicant is requesting 1) a 15-foot sign height variance to allow a freestanding sign 39-feet in height along an Arterial Type B Street and 2) a 47 square-foot area variance to allow a 197 square-foot freestanding sign along an Arterial Type B Street.

Tony Felts, Planner, presented background and staff's recommendation of denial of the requested variances. He indicated 25 notices were mailed, one was returned in favor and none were returned in opposition and no response from the Five Points Owners Association.

Debra Moltz, representative, stated they are trying to accommodate 15-foot and additional 47-square feet. She also stated this would allow a little visibility from the light. She further stated they are two entries and are allowed two signs but are only requesting one sign.

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-13-042 closed.

MOTION

A motion was made by **Mr. Ozuna**. "Re Appeal No. **A-13-042**, variance application for **Chandler Signs** with the owner being **Cohen Yahiel, LLC**, property location is **Lot 11, Block 47, NCB 357**, the applicant again being **Chandler Signs**. I move that the Board of Adjustment grant the applicant's request regarding Appeal No. **A-13-042**, 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 UDC, as amended, would result in an unnecessary hardship. The variance request is for **a 15-foot sign height variance to allow a freestanding sign 39 feet in height along an Arterial Type B Street and a 47 square-foot area variance to allow a 197 square-foot freestanding sign along an Arterial Type B Street**. I would also like to show for the record that at the site location the applicant would be limited to one sign. The location would be in a general location as shown in the plot plan exhibit attached to the variance request. 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. After seeking one or more of the findings set forth, 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 in that the **applicant has provided testimony to us today that shows in the proximity of this sign that there are other signs along Cypress and San Pedro that would have for the same height. Additionally the sign limits along San Pedro would be the same as Cypress and the 15-foot height variance merely provides some opportunity for visibility for drivers to the proposed fast-foot restaurant to be able to turn and access the site within reasonable amount of distance and provide for a safer maneuvering into the site**. Granting the variance will not have a substantially adverse impact on neighboring properties in that the **applicant provided testimony and staff provided testimony that there was no opposition to the requested variance to us today**. Granting the variance will not substantially conflict with the stated purposes of this article in that the **existing variances would remain including the pedestrians zoning which provides for enhanced pedestrian friendly features with the property**." The motion was seconded by **Mrs. Dutmer**.

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

NAYS: None

THE VARIANCES WERE GRANTED.

Approval of the Minutes

The May 20, 2013 minutes were approved with all members voting in the affirmative with Ms. Dutmer abstaining from the approval of the minutes.
