

**BOARD OF ADJUSTMENT  
OFFICIAL MINUTES  
November 17, 2014**

**Members Present:**

Mary Rogers  
Frank Quijano  
Alan Neff  
Gabriel Velasquez  
George Britton  
Maria Cruz  
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.

Ms. Rogers, Vice-Chair, called the meeting to order and called roll of the applicants for each case.

**CASE NO. A-15-005**

Applicant – Kenia Elizardo  
Lot 97, Block 2, NCB 15972  
8715 Five Palms  
Zoned: “R-6 AHOD” Residential Single-Family Airport Hazard Overlay District

The applicant is requesting a renewal to a special exception to allow a one-operator beauty or barber shop in a 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 35 notices were mailed, one was returned in favor and none were returned in opposition and no response from the Southwest Community Association.

Kenia Elizardo, applicant, stated she has not had any problems or complaints from her neighbors. She also stated her clientele will be by appointment only and has had the shop for about eight years in her home. She further stated

**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-15-005 closed.

## MOTION

A motion was made by **Mr. Rodriguez**. Re Appeal No **A-15-005**, special exception for a **renewal to a special exception to allow a one-operator beauty or barber shop in a home as described in Section 35-399.01**, subject property description **Lot 97, Block 2, NCB 15972**, located at **8715 Five Palms**, applicant **Kenia Elizardo**. I move that the Board of Adjustment grant the applicants request regarding Appeal No. **A-15-005**, 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. Staff noted that nothing about the home distinguishes it from others in the community. Also, the applicant has fulfilled all requirements for a one operator shop as established in the Unified Development Code. 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 a request for a renewal to a special exception. She has been in operation for several years already without any issues with neighbors. Allowing the renewal to the special exception 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 he 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 large 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 Code. Furthermore, the applicant has submitted the proposed hours of operation being Monday, Tuesday, Thursday, Friday, and Saturday 12:30 pm to 7:00 pm for a total of 32 and half hours per week. Should the board of adjustment grant the specific exception the allowed use would be and this board member is asking for a period of four years. The recommendation of the staff is for approval. The motion was seconded by Mr. Martinez.**

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

**NAYS: None**

**THE SPECIAL EXCEPTION WAS GRANTED.**

**CASE NO. A-15-002**

Applicant – Sandra Machado  
Lots 19 & 20, Block 27, NCB 8519  
1303 Whitman Avenue  
Zoned: “R-6 AHOD” Residential Single-Family Airport Hazard Overlay District

The applicant is requesting a two foot variance from the six foot maximum fence height as described in Section 35-514(d) to allow an eight foot tall privacy fence in the rear yard.

Logan Sparrow, Planner, presented background and staff’s recommendation of approval of the requested variance. He indicated 21 notices were mailed, none were returned in favor and none were returned in opposition.

Sandra Machado, applicant, stated the existing fence in is need of repairs. She also stated the height variance would prevent her dog from jumping over the fence. She further stated she is in the process of hiring a licensed contractor to construct 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-15-002 closed.

**MOTION**

A motion was made by **Mr. Velasquez**. Re Appeal No. **A-15-002**, variance application for a **two foot variance from the six foot maximum fence height as described in Section 35-514(d) to allow an eight foot tall privacy fence in the rear yard.**, subject property description **Lots 19 & 20, Block 27, NCB 8519**, situated at **1303 Whitman Avenue**, applicant being **Sandra Machado**. I move that the Board of Adjustment grant the applicant’s request regarding Appeal No. **A-15-002**, 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, these criteria are related to the applicant’s proximity to the railroad tracks to the east of the property. The proposed fence could help to mitigate the effects of living 40 feet from a railroad. Additionally, the public interest will be served in this case as the applicants will be**

replacing an old six foot tall wooden fence that has fallen into disrepair with a new, eight foot tall wood privacy fence. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the special conditions present in this case are the proximity to the railroad tracks to the east of the property. A literal enforcement of the ordinance would limit the applicant to a six foot tall wooden privacy fence, which would not adequately provide for separation between the railroad and the single-family residential use.** The spirit of the ordinance is observed and substantial justice is done in that **the requested variance may be considered consistent with the spirit of the ordinance because the fence serves to keep the applicant's dog contained on her 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 in that **the requested variances will not authorize the operation of a use on the subject property other than those specifically permitted in the "R-6 AHOD" Residential Single-Family 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 variances are unlikely to adversely affect the community as the fence will replace one which has fallen into disrepair. The proposed eight foot tall fence will also help to separate the single-family home from the railroad tracks located 40 feet to the east of the applicant's 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 unique circumstances existing on the property are the close proximity of the railroad tracks to the east of the property.** The motion was seconded by Ms. Cruz.

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

**NAYS: Zuniga**

**THE VARIANCE WAS GRANTED.**

**CASE NO. A-15-006**

Applicant – Thomas Mote  
Lot 5, Block 62, NCB 10591  
119 Marlana Drive  
Zoned: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District

The applicant is requesting a two foot variance from the six foot maximum fence height as described in Section 35-514(d) to allow an eight foot tall privacy fence in the rear yard.

Logan Sparrow, Planner, presented background and staff's recommendation of approval of the requested variance. He indicated 25 notices were mailed, 2 were returned in favor and none were returned in opposition and no response from the Dellview Area Neighborhood Association.

Thomas Mote, applicant, stated he was not aware of obtaining permits to replace an existing fence. He also stated he was merely repairing the existing fence. He further stated the fence would provide security and safety of 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-15-006 closed.

**MOTION**

A motion was made by **Mr. Velasquez**. Re Appeal No. **A-15-006**, variance application for a **two foot variance from the six foot maximum fence height as described in Section 35-514(d) to allow an eight foot tall privacy fence in the rear yard**, subject property description the **Lot 5, Block 62, NCB 10591**, situated at **119 Marlana Drive**, applicant being **Thomas Mote**. I move that the Board of Adjustment grant the applicant's request regarding Appeal No. **A-15-006**, 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, these criteria are related to the applicant's desire to separate their single-family home from vehicle and foot traffic in the alley behind their property.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **the special conditions present in this case are the proximity to the busy alley and the multifamily use abutting the property. A literal enforcement of the ordinance would limit the applicant to a six foot tall wooden privacy fence, which would not adequately provide for the separation between these uses.** The spirit of the ordinance is observed and substantial justice is done in that **the requested variance may be considered consistent with the spirit of the ordinance because the fence serves to separate single-family from multi-family uses. Additionally, substantial justice will be done as those who pass through the alley behind the home have been known to leave drug paraphernalia and trash behind. The current residents benefit substantially from being able to separate their family from activities such as these.** 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 variances 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.** 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 variances are unlikely to adversely affect the community as the fence is located along the rear property line of the single-family home. As such, the fence will not be seen from the street and will not negatively affect the character of the community.** 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 are the close proximity of the multifamily development behind the home and the criminal activity in the alley behind the home. The motion was seconded by Mr. Rodriguez.

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

**NAYS: None**

**THE VARIANCE WAS GRANTED.**

**CASE NO. A-15-004**

Applicant – Fred Schraub

Lot 10 & W. 12.5 ft of Lot 11, Block 4, NCB 1701

138 E. Agarita Avenue

Zoned: “R-4 H AHOD” Residential Single Family Monte Vista Historic Airport Hazard Overlay District

The applicant is requesting a 3 foot variance from the minimum 5 foot side yard setback, as detailed in Table 35-310-1, to allow a carport 2 feet from the side property line.

Margaret Pahl, Senior Planner, presented background and staff’s recommendation of approval of the requested variance. She indicated 23 notices were mailed, one was returned in favor and none were returned in opposition and no response from the Monte Vista Neighborhood Association.

Fred Shraub, applicant, stated the carport is in need of reconstruction due to deterioration. He was hoping to repair the existing structure but was not deemed structurally sound by an engineer.

**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-15-004 closed.

**MOTION**

A motion was made by **Mr. Quijano**. Re Appeal No. **A-15-004**, variance application for a **3 foot variance from the minimum 5 foot side yard setback, as detailed in Table 35-310-1, to allow a carport 2 feet from the side property line**, subject property description the **Lot 10 & W. 12.5 ft of Lot 11, Block 4, NCB 1701**, situated at **138 E. Agarita Avenue**, applicant being **Fred Schraub**. I move that the Board of Adjustment grant the applicant’s request regarding Appeal No. **A-15-004**, 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. **However, on this property, an accessory structure has occupied this space for over 90 years. The applicant has discussed the proposed reconstruction with the abutting property owners, who expressed no concerns over the location. Therefore, the requested variance 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 **a literal enforcement of the 5 foot setback would force a vehicle to enter the new carport on an angle, thereby reducing the available storage space from two vehicles to one. The existing driveway is less than 8 feet in width, leaving no room for maneuvering. This special condition makes literal enforcement of the 5 foot setback an unnecessary hardship.** The spirit of the ordinance is observed and substantial justice is done in that **the spirit of the ordinance will be observed by allowing the carport to be reconstructed in the same location it has been for over 90 years, given it will have room for maintenance without trespass and will be constructed with fire-rated materials.** 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 variances will not authorize the operation of a use on the subject property other than those specifically permitted in the "R-4 H AHOD" Monte Vista Historic District Residential Single Family 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 would allow the reconstruction of an existing carport in the rear yard of a historic home in the Monte Vista Historic District. While the carport design has not been granted a Certificate of Appropriateness, it has been reviewed and approved by the architectural committee of the historic district's neighborhood association.** 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 plight of the owner is not financial, but instead due to the narrow lot and the structural integrity of the existing carport. The variance if granted would still provide room for maintenance and fire protection as envisioned by the setbacks.** The motion was seconded by Mr. Rodriguez.

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

**NAYS: None**

**THE VARIANCE WAS GRANTED.**

**Board members recessed for five minutes.**

**CASE NO. A-15-007**

Applicant – Michael Wille

Lot 15, NCB 11824

7703 Hartman Court

Zoned: “NP-10 AHOD” Neighborhood Preservation Airport Hazard Overlay District

The applicant is a three foot variance from the 20 foot required rear building setback as described in Section 35-310.01 to allow an addition to an existing garage 17 feet from the rear property line

Logan Sparrow, Planner, presented background and staff’s recommendation of approval of the requested variance. He indicated 23 notices were mailed, one was returned in favor and 2 were returned in opposition and no response from the Oak Park – Northwood Neighborhood Association.

Michael Wille, applicant, stated the variance would provide some storage so that they could free up some space in their garage for their vehicles. He also stated there have been numerous vandalisms to their vehicles.

**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-14-007 closed.

**MOTION**

A motion was made by **Mr. Velasquez**. Re Appeal No. **A-15-007**, variance application for a **three foot variance from the 20 foot required rear building setback as described in Section 35-310.01 to allow an addition to an existing garage 17 feet from the rear property line**, subject property description **Lot 15, NCB 11824**, situated at **7703 Hartman Court**, applicant being **Michael Wille**. I move that the Board of Adjustment grant the applicant’s request regarding Appeal No. **A-15-007**, 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, these criteria are related to the balance between the applicant’s need for additional parking and storage space and the separation needs between residential and commercial uses. Though the applicant is asking for a three foot variance from the 20 foot required rear setback, the proposed garage addition will still be 82 feet from the nearest commercial use. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that the special conditions present in this case are the proximity to the commercial use abutting the rear of the applicant’s property. The requested variance would still provide for 82 feet of separation between the proposed garage addition and the nearest use. As**

**such, denying the applicant's request will result in an unnecessary hardship. The applicant would not be permitted an expansion to the existing curb cut. The existing curb cut already exceeds the maximum of 20 feet by eight feet. The spirit of the ordinance is observed and substantial justice is done in that the requested variance may be considered consistent with the spirit of the ordinance because the proposed garage addition would still be 82 feet from the nearest use, being the church parking lot. An 82 foot space is adequate for separation for fire protection and is enough space to provide for fair access to air and light. 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 variances will not authorize the operation of a use on the subject property other than those specifically permitted in the "NP-10 AHOD" Neighborhood Preservation 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 variances are unlikely to adversely affect the community as the proposed addition will be 82 feet from the nearest neighboring use. This distance more than provides for fire separation requirements and fair access to air and light. 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 are 20 foot required front building setbacks which push the dwelling further back than is common on other, similar residential lots. If the home was built with a 10 or 15 foot front setback, as is common on residential lots in San Antonio, then the variance wouldn't be necessary. The requested variance is not simply financial in nature. The motion was seconded by Ms. Cruz.**

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

**NAYS: None**

**THE VARIANCE WAS GRANTED.**

**CASE NO. A-15-009**

Applicant – O'Reilly Automotive Store  
Lot 116, NCB 9483  
2812 Pleasanton Road  
Zoned: "I-1 AHOD" General Industrial Airport Hazard Overlay District

The applicant is requesting an eight foot variance from the required 30 foot rear building setback as described in Section 35-310.01 to allow a retail store 22 feet from the rear property line

Logan Sparrow, Planner, presented background and staff's recommendation of approval of the requested variance. He indicated 23 notices were mailed, none were returned in favor and none were returned in opposition and no response from the Harlandale Park Neighborhood Association.

Steven Vent, applicant, stated the addition would provide for the stock of the inventory which would benefit the applicant.

**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-15-009 closed.

**MOTION**

A motion was made by **Mr. Velasquez**. Re Appeal No. **A-15-009**, variance application for an **eight foot variance from the required 30 foot rear building setback as described in Section 35-310.01 to allow a retail store 22 feet from the rear property line**, subject property description **Lot 116, NCB 9483, situated at 2812 Pleasanton Road**, applicant being **O'Reilly Automotive Store**. I move that the Board of Adjustment grant the applicant's request regarding Appeal No. **A-15-009**, 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, these criteria are related to the balance between the applicant's need for additional retail space and the needs of the neighboring properties to be able to enjoy their property. Because the requested variance will bring the retail store within 22 feet of the rear neighbors property, the applicant has told staff that O'Reilly will remove existing flood lighting at the rear of the building so that the neighbors yard is not illuminated overnight. Also, the applicant has volunteered to plant additional landscape buffering for better separation between the two uses. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that the special conditions present in this case are the proximity of the commercial use abutting the residential use at the rear of the applicant's property. Because the applicant is removing exterior lighting and adding more landscaping to meet the spirit of the ordinance a literal enforcement of code would result in an unnecessary hardship. The spirit of the ordinance is observed and substantial justice is done in that the requested variance may be considered consistent with the spirit of the ordinance because the proposed addition will not have any flood lighting that could infringe on the enjoyment of the neighbors property, especially after hours. Also, the applicant is proposing to add a larger buffer yard to better separate the commercial and residential uses. Substantial justice will be done because of the efforts of the applicant to meet the spirit of the ordinance. 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 variances will not authorize the operation of a use on the subject property other than those specifically permitted in the "I-1 AHOD" Light Industrial 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 variances are unlikely to adversely affect the neighboring property**

**because the applicant is removing exterior flood lights and adding landscape buffering. With these two mitigation efforts in place it is unlikely that adjacent, conforming uses will be harmed.** 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 are the large setbacks required when industrially zoned land meets residentially zoned land. The store, which is situated on an irregularly shaped lot is in need of expansion to keep up with demand from the community. Because of the irregularly shaped lot the proposed addition encroaches into the required setback by eight feet. These conditions are not the fault of the owner and are not merely financial in nature.** The motion was seconded by Mr. Camargo.

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

**NAYS: None**

**THE VARIANCE WAS GRANTED.**

**CASE NO. A-15-003**

Applicant – Erlinda Cortez

Lots 8 & 9, Block 1, NCB 6524

416 Pershing Avenue

Zoned: “R-4 NCD-6” Residential Single Family Mahncke Park Neighborhood Conservation District

The applicant is requesting 1) a 52 foot variance from the Mahncke Park Neighborhood Conservation District requirement, Section 3.6, that an attached carport be located behind the principal structure to allow an attached carport 10 feet in front of the home and 2) a 5 foot variance from the minimum side yard setback, detailed in Table 35-310-1, to allow the carport on the side property line

Margaret Pahl, Senior Planner, presented background and staff’s recommendation of denial of the NCD variance and approval of the side yard setback variance. She indicated 23 notices were mailed, 2 were returned in favor and none were returned in opposition and the Mahncke Park Neighborhood Association is in opposition of the NCD variance.

Daniel Gonzales, representative, stated the carport would provide protection for the property owner’s vehicle. He also stated the relocation of the gate would cause a blind spot for the property owner. He further stated the variance would be convenient for the property owner to have easy access 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-15-003 closed.

## MOTION

A motion was made by **Mr. Velasquez**. Re Appeal No. **A-15-003**, variance application for **1) a 52 foot variance from the Mahncke Park Neighborhood Conservation District requirement, Section 3.6, that an attached carport be allowed to be located in front of the principal structure to allow an attached carport 10 feet away from the front of the home and 2) a 5 foot variance from the minimum side yard setback, detailed in Table 35-310-1, to allow the carport on the side property line**, subject property description **Lots 8 & 9, Block 1, NCB 6524**, situated at **416 Pershing Avenue**, applicant being **Erlinda Cortez**. I move that the Board of Adjustment grant the applicant's request regarding Appeal No. **A-15-003**, 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 would be represented by the design of the owner to have an open face carport with an open roof. In this situation the variance would allow the carport to protrude in front of the house.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **a literal enforcement of the code would result in the applicant having to construct the carport structure behind the home. The applicant has demonstrated the open nature of the carport to be a character different than what would typically be a closed structure.** The spirit of the ordinance is observed and substantial justice is done in that **the spirit of the ordinance will be observed with the carport being open and its structural nature.** 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 variances will not authorize the operation of a use on the subject property other than those specifically permitted in the "R-4 NCD-6" Residential Single-Family Mahncke Park Neighborhood Conservation 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 does not have opposition on either side of the property with one direct neighbor having indicated that they were not in opposition to this variance.** 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 owner of the property has sent their hopes that they will be able to exit the car. Noted that the owner is reaching an age where safety is an issue and would like to be able to exit her car and get into the house without being in blind zone.** The motion was seconded by **Mr. Rodriguez**.

**Mr. Velasquez rescinded his motion with Mr. Rodriguez seconded the motion.**

A motion was made by **Mr. Martinez**. Re Appeal No. **A-15-003**, for a carport at **416 Pershing Avenue**, subject property description **Lots 8 & 9, Block 1, NCB 6524**, applicant being **Erlinda Cortez**, for the request to **build a carport flushed on the eastside of the driveway with the front of the home with a variance of 5 foot variance from the minimum side yard setback, detailed in Table 35-310-1, to allow the carport on the side property line**. I move that the Board of Adjustment grant the applicant's request regarding Appeal No. **A-15-003**, 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 for this purpose we will approve the carport as presented in design before the board to be positioned on the side of the property no further in the front side wall**. The standards were adopted to protect the prominent defining characteristics of the neighborhood. In this situation, the variance to allow the carport to not protrude in front and is not contrary to the public interest. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that a literal enforcement of the code would result in the applicant having to construct the carport behind the home. The requested NCD variance would eliminate the location design standard and allow the carport to be built. A more modest modification of the design standard to allow the carport adjacent to the structure would have less negative impact to the streetscape. Since no portion of the proposed carport trellis will be flammable, and the 9 foot driveway is constructed on the property line, a literal enforcement of the 5 foot setback would result in an unnecessary hardship. The spirit of the ordinance is observed and substantial justice is done in that **the carport will not exceed the front façade of the home**. This required location will not give the carport visible prominence. The NCD standards were designed to prevent this. 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 variances will not authorize the operation of a use on the subject property other than those specifically permitted in the "R-4 NCD-6" Residential Single-Family Mahncke Park Neighborhood Conservation 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 NCD variance is likely to adversely affect adjacent property owners by allowing a metal trellis structure in front of the historic front façade of the existing home**. The essential character of the Mahncke Park neighborhood is the minimal visual impact of rear garages. In checking each of the houses on this block of Pershing Avenue, only one includes a garage (attached) visible from the street. If the carport were built behind the front façade, even 5 feet behind, the visual impact would be significantly reduced. 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 design standards of the Neighborhood Conservation District impact nearly 1,000 homes, making the plight of the owner not unique**. The driveway is located on the east side of the house and is the same width of a parking stall. A side yard variance is required to cover the driveway; the setback would require the support system be

**constructed in the middle of the drive. The purpose of the typical setback is to provide fire separation and room for maintenance without trespass, two features not required by the proposed design. The motion was seconded by Mr. Zuniga.**

**AYES: Martinez, Zuniga, Rodriguez, Velasquez, Britton**

**NAYS: Quijano, Neff, Cruz, Kuderer, Camargo, Rogers**

**THE VARIANCES WERE NOT GRANTED.**

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**CASE NO. A-15-008**

Applicant – Michael Lockridge

Lots 5 & 6, Block 9, NCB 3868

216 Eleanor & 215 Wesley

Zoned: “MF-33 NCD-6 AHOD” Multi-Family Mahncke Park Neighborhood Conservation Airport Hazard Overlay District

The applicant is requesting 1) a 1 foot variance from the minimum 5 foot side yard setback, as detailed in Table 35-310-1, to allow an existing single family home 4 feet from the side property line; 2) a 2 foot variance from the minimum 5 foot side yard setback, as detailed in Table 35-310-1, to allow an existing 4-plex 3 feet from the side property line; and 3) a variance from the Mahncke Park Neighborhood Conservation District standards 3.4.6 to allow the replacement of windows and a reduction in the number of window openings inconsistent with the standards on the secondary street elevation.

Margaret Pahl, Senior Planner, presented background and staff’s recommendation of approval of the requested variances. She indicated 36 notices were mailed, one was returned in favor and 2 were returned in opposition and Mahncke Park Neighborhood Association is in opposition.

Michael Lockridge, applicant, stated he is remodeling an existence structure that has deteriorated over time. He also stated he is replacing the windows to have them all in line and repaired due to previous poorly constructed windows. He further stated the original character of the building is impossible to determine due to the building having numerous additions over the 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-15-008 closed.

**MOTION**

A motion was made by **Mr. Quijano**. Re Appeal No. **A-15-008**, variance application for **1) a 1 foot variance from the minimum 5 foot side yard setback, as detailed in Table 35-310-1, to allow an existing single family home 4 feet from the side property line; 2) a 2 foot variance from the minimum 5 foot side yard setback, as detailed in Table 35-310-1, to allow an**

**existing 4-plex 3 feet from the side property line; and 3) a variance from the Mahncke Park Neighborhood Conservation District standards 3.4.6 to allow the replacement of windows and a reduction in the number of window openings inconsistent with the standards on the secondary street elevation, subject property description Lots 5 & 6, Block 9, NCB 3868, situated at 216 Eleanor & 215 Wesley, applicant being Michael Lockridge. I move that the Board of Adjustment grant the applicant's request regarding Appeal No. A-15-008, 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 it is likely that the intent was to preserve the symmetry of the original architecture, rather than incremental additions and changes made by various owners over time. Therefore, the variance to allow the renovated windows would be in the public's interest. In addition, granting the variance to conform the existing setbacks is also in the public's interest. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that a literal enforcement of the code would result in the applicant having to reinstall additional windows, some of which would include different sizes. The requested NCD variance would allow the existing window installation to remain. The other variances to allow the existing building setbacks create special conditions warranting approval. 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 requested setback variances, given that both buildings were constructed over 50 years ago. The spirit of the window design guidelines is more difficult to determine. The applicant details the measures taken, such as trim and sill installations, to achieve the intent of the requirement. 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 variances will not authorize the operation of a use on the subject property other than those specifically permitted in the "MF-33 NCD-6 AHOD" Multi-Family Mahncke Park Neighborhood Conservation District 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 NCD variance is not likely to adversely affect adjacent property owners; the renovations made to the structures improve their overall appearance. In addition, the original façade details facing Eleanor were completely retained. While the Wesley façade originally had more windows, the resulting elevation does not detract from the character of the property. 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 plight of the owner originated from the previous window additions made to the Wesley façade over time. A view of the previous windows showed a variety of styles and shapes. The applicant has completed updating the building, including the addition of the new windows and the removal of some of the window openings. These have been replaced with closets and cabinets, consistent with the needs of tenants. The motion was seconded by Mr. Kuderer.**

**AYES: Quijano, Kuderer, Rodriguez, Neff, Velasquez, Britton, Cruz, Zuniga, Kuderer, Camargo, Rogers**

**NAYS: None**

**THE VARIANCE WAS GRANTED**

**Mr. Rodriguez departed at 4:39 p.m.**

