

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

Members Present:

Andrew Ozuna
Mary Rogers
Frank Quijano
Alan Neff
Gabriel Velasquez
George Britton
Maria Cruz
Jesse Zuniga
John Kuderer
Paul Klein
Gene Camargo

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.

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

CASE NO. A-14-113

Applicant – Roy English Jr.
Lot 8, Block 11, NCB 13882
5803 Cayuga Drive
Zoned: “R-5 AHOD” Residential Single-Family Airport Hazard Overlay District

The applicant is requesting 1) a two foot variance from the six foot maximum as described in Section 35-514(d) to allow a fence that is eight feet in height in the rear and side of the property and 2) a one foot variance from the four foot maximum as described in 35-514(d) to allow a chain link fence five feet tall in the front yard of the property.

Logan Sparrow, Planner, presented background and staff’s recommendation of approval of the requested variances. He indicated 19 notices were mailed, none were returned in favor and none were returned in opposition and response from the Thunderbird Hills Neighborhood Association.

Roy English, Jr., applicant, stated there have been numerous incidents of vandalism and thefts in the neighborhood. He also stated the fence would provide security and protection from any trespassers in the neighborhood. He further stated due to the topography he would need an 8-foot fence and the fence company he hired informed him that a permit would not be needed to install 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-14-113 closed.

MOTION

A motion was made by **Mr. Quijano**. “Re Appeal No. **A-14-113**, variance application for **1) a two foot variance from the six foot maximum as described in Section 35-514(d) to allow a fence that is eight feet in height in the rear and side of the property and 2) a one foot variance from the four foot maximum as described in 35-514(d) to allow a chain link fence five feet tall in the front yard of the property**, subject property description being **Lot 8, Block 11, NCB 13882**, situated at **5803 Cayuga Drive**, applicant being **Roy English Jr.** I move that the Board of Adjustment grant the applicant’s request regarding Appeal No. **A-14-113**, 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 compromised sense of privacy and security that one should expect to enjoy in their home. The applicants have constructed a fence that allows easy access for utility servicing and has stated that they have the support of several neighbors.** 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 abnormally common occurrences of theft and vandalism in the community. Denying the request of the applicants to keep their fence would result in an unnecessary hardship as the applicant’s home and property would once again be subject to vandalism and theft.** The spirit of the ordinance is observed and substantial justice is done in that **the variances requested may be considered consistent with the spirit of the ordinance because the fence will serve to protect the applicant’s home and property while still allowing access for utility servicing. The applicant has further stated that their neighbors are pleased with the fence as they feel that it helps to deter criminal activity in the community.** 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-5 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 many neighbors have stated, per the applicant, that they are in favor of the requested variances. As such, those most affected by the fences are in support of the variances.** 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 high property crime rates in the community. These unique circumstances are not created by the owner and are not merely financial in nature.” The motion was seconded by Ms. Cruz.

AYES: Quijano, Cruz, Neff, Velasquez, Britton, Zuniga, Klein, Kuderer, Camargo, Rogers, Ozuna

NAYS: None

THE VARIANCES WERE GRANTED.

Mr. Velasquez made a motion to move Case No **A-14-114** to the end of the agenda. **Mr. Kuderer** seconded the motion with all members voting in the affirmative.

CASE NO. A-14-115

Applicant – Orlando Rangel

Lot 9, Block 5, NCB 2554

127 Camp Street

Zoned: “C-3 NA AHOD” General Commercial Non-Alcoholic Sales Airport Hazard Overlay District

The applicant is requesting 1) a two foot variance from the six foot maximum as described in Section 35-514(d) to allow a wood privacy fence eight feet tall in the rear of the property and 2) a two foot variance from the four foot maximum as described in Section 35-514(d) to allow a predominately open six foot tall fence in the front yard.

Logan Sparrow, Planner, presented background and staff’s recommendation of approval of the requested variances. He indicated 24 notices were mailed, 5 were returned in favor and none were returned in opposition.

Orlando Rangel, applicant, stated there has been numerous thefts on their property. He also stated the fence would provide security and safety. He further stated that the due to the commercial properties surrounding his residential home, the fence would provide a privacy barrier between the properties.

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-14-115 closed.

MOTION

A motion was made by **Mr. Kuderer**. “Re Appeal No. **A-14-115**, variance application for **1) a two foot variance from the six foot maximum as described in Section 35-514(d) to allow a wood privacy fence eight feet tall in the rear of the property and 2) a two foot variance**

from the four foot maximum as described in Section 35-514(d) to allow a predominately open six foot tall fence in the front yard, subject property description being Lot 9, Block 5, NCB 2554, situated at 127 Camp Street, applicant being Orlando Rangel. I move that the Board of Adjustment grant the applicant's request regarding Appeal No. A-14-115, 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 applicants wish to enjoy the safety and privacy of their home. The applicants are requesting these variances so that they have a greater peace of mind while living in this downtown community. Additionally, the home is surrounded by commercial uses and the requested variances will help to separate the applicant's single-family home from these commercial properties.** 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 occurrences of theft in the community. The applicant has stated that the home has been burglarized twice this year. The applicant is requesting the variance to provide greater protection for himself and his wife. Additionally, the single-family home, which was built in 1928 per Bexar County tax records, is situated on a property zoned for commercial uses. The applicant has already applied for, and been granted, non-conforming use rights for a single-family dwelling, which was granted on September 26, 2014. The home is adjacent to several commercial properties and the fences will provide added separation between residential and commercial uses. The spirit of the ordinance is observed and substantial justice is done in that the variances requested may be considered consistent with the spirit of the ordinance because the fence will serve to protect the applicant's home. The applicant has further stated that the adjacent commercial properties are in favor of the requested fence variances.** 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 "C-3 NA AHOD" General Commercial Non-Alcoholic Sales 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 neighboring commercial properties have stated, per the applicant, that they are in favor of the requested variances. As such, those most affected by the proposed variances are in support of them.** 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 high property crime rates in the community. Also, the single-family home is adjacent to several commercial properties in this downtown community. These unique circumstances are not created by the owner and are not merely financial in nature. To include the side yard fence as per site plan submitted.**" The motion was seconded by Mr. Camargo.

AYES: Quijano, Neff, Velasquez, Britton, Cruz, Zuniga, Klein, Kuderer, Camargo, Rogers, Ozuna

NAYS: None

THE VARIANCES WERE GRANTED.

CASE NO. A-15-001

Applicant – Brian Rosenau
Lot 21, Block 3, NCB 18086
4503 Tranquil Creek
Zoned: “R-6 AHOD” Residential Single-Family Airport Hazard Overlay District

The applicant is requesting a 12 foot variance from the minimum 20 foot rear yard setback to allow an attached patio cover and a storage shed 8 feet from the rear property line

Margaret Phal, Senior Planner, presented background and staff’s recommendation of approval of the requested variance. She indicated 32 notices were mailed, none were returned in favor and none were returned in opposition and no response from the Lindsay Place Association.

Brian Rosenau, applicant, stated he was informed by the builder that he would be able to add to the rear of the property. He also stated he was not aware of obtaining permits for the additions to his property and was not aware of the twenty foot rear setback.

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-15-001 closed.

MOTION

A motion was made by **Mr. Velasquez**. “Re Appeal No. **A-15-001**, variance application for a **12 foot variance from the minimum 20 foot rear yard setback to allow an attached patio cover and a storage shed 8 feet from the rear property line**, subject property description being **Lot 21, Block 3, NCB 18086**, situated at **4503 Tranquil Creek**, applicant being **Brian Rosenau**. I move that the Board of Adjustment grant the applicant’s request regarding Appeal No. **A-15-001**, 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. According to the applicant, the project supports inadequacies of the original design, the lack of storage. In addition, the details of the patio roof were designed to compliment the architecture of the home, making the requested variance not contrary to the public interest.** Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **according to the applicant, the**

floor plan of the house includes a kitchen that forms a pointed corner that reaches the 20 foot rear setback. A literal enforcement of the code would result in an unnecessary hardship as the owners would be required to dismantle the patio cover and the storage shed. The spirit of the ordinance is observed and substantial justice is done in that the variances requested may be considered consistent with the spirit of the ordinance because the irregular floor plan and orientation of the kitchen reduced compliant patio options. 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 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 is not likely to adversely affect adjacent property owners. The storage shed will be enhanced with french doors and windows, camouflaging its use. According to the applicant, the patio roof contributes to the individualism of the home, rather than the original "cookie-cutter" version. 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 special condition present in this case is the kitchen design and shape built right up to the setback line. Because of this unique shape, the covered patio had to also be custom designed to relate to the rear wall of the home. This situation is not merely financial, nor typical of other homes in the district." The motion was seconded by Mr. Neff.

AYES: Rogers, Camargo, Quijano, Neff, Rodriguez, Britton, Zuniga, Martinez, Kuderer, Ozuna

NAYS: None

THE VARIANCE WAS GRANTED.

Board members recessed for five minutes.

Mr. Camargo departed the board room at 1:54 for purpose of recusal.

CASE NO. A-14-070

Applicant – Map Industries, LLC

Lot 5A, Block 4, NCB 11160

4805 Roosevelt Avenue

Zoned: "C-2 MC-1 AHOD" Commercial Roosevelt Avenue Metropolitan Corridor
Airport Hazard Overlay District

The applicant is an appeal of the following Director's decisions for 1) a denial of certification of legal non-conforming use rights at the above-referenced location to operate of a "Used Automotive Parts Recycling"; and 2) a denial of certification of legal non-conforming use rights at the above-referenced location to operate a "Metal and Non-Ferrous Material Recycling Facility with or without Outside Storage and/or Processing."

Catherine Hernandez presented the case information regarding an appeal of the Director's decision to deny non-conforming use rights for used automotive parts recycling and metal recycling with outside storage. Applicant: Map Industries, LLC; Legal Description: Lot 5A, Block 4, NCB 11160; Property Address: 4805 Roosevelt Avenue; Zoning: "C-2 MC-1 AHOD" Commercial Roosevelt Avenue Metropolitan Corridor Airport Hazard Overlay District. Staff stated that the city zoning regulations have always required Industrial Zoning for both uses. The subject property has never been zoned industrial. Staff provided a zoning history of the property as follows: **1938** – Automobile Wrecking (L, M, LL, MM); **1965** - Automobile Wrecking, Dismantling or Salvage (L, M, LL, MM); Junkyard or Salvage Yard (I-2 CC); **1987** – Amendment to require SUP in L for Automobile Wrecking, Dismantling or Salvage; **2001** – Junkyard or Salvage Yard (I-2 S); **2012** – Amendments to separate Metal Recycling Entity (I-2 S). Ms. Hernandez stated that the applicant purchased the property in January of 2014 and applied for Non-Conforming Rights for the facility as an Automotive Recycling use. Ms. Hernandez stated that the use was previously granted legal non-conforming use registration status in 2000 and issued a Certificate of Occupancy in 2000. Ms. Hernandez stated that for the Metal and Non-Ferrous Materials Recycling use, according to UDC 35-702 (b) **Nonconforming Uses**, the lawful use of land existing as of the effective date of this chapter, or a lawful use which becomes nonconforming because of an amendment to this chapter, may be continued as provided in this section. The use must be lawfully operated in accordance with provisions of prior zoning ordinances. Staff researched the zoning history of the 2.94 acre parcel, known as "N IRR 556 FT of S 583 FT of Lot 5A, Block 4, NCB 11160. The property was annexed into the City on 09/25/1952. Ms. Hernandez stated that the property was zoned "Temp A" zoning, a Single-Family Residential District. The property was rezoned on 1/24/57 from "Temp A" to "B", a residential district that allowed duplexes. In 1986, the property was rezoned from "B" to "B-3" Business District. On 01/09/1986, the property was rezoned from "B" to "B-3". Through the 2001 adoption of the UDC and zoning conversion, the zoning of the property converted to "C-3". On 10/01/2009, the property was rezoned from "C-3" to "C-2". Ms. Hernandez stated that the property history shows it was never zoned for Industrial Uses. Ms. Hernandez further stated that the use would have had to be legally in operation prior to annexation and operated continuously, without an interruption of more than 12 months. The facts show the property annexed in 1952; never had Industrial zoning; no evidence of the automotive recycling use in operation at the time of annexation, and a 1955 aerial photograph showed no use on the property. Since the use was never legally established, the Director denied certification of non-conforming use rights. For the Metal and Non-Ferrous Material Recycling Use, the use would have also had to be legally in operation prior to annexation and operated continuously, without an interruption of more than 12 months. The property was annexed in 1952 and never had Industrial zoning. In 2011, Texas DPS required State Licenses for metal recycling. The applicant applied for a license and was granted the license by the State in 2014. Since the use was never legally established prior to the annexation of the property, the Director denied certification of non-conforming use rights. Ms. Hernandez presented the staff recommendation that the Board uphold the Director's two

decisions based on the finding: The property never had the required Industrial zoning district to allow legal establishment of the uses. Mailed 23 notices; 0 in favor; 0 in opposition; No response from the registered Neighborhood Association.

Rogers asked for clarification as to why there were industrial uses in the area if they were not zoned properly and staff provided information related to creation of non-conforming uses through annexation or rezonings that occur.

Klein asked if the owners were responsible for applying for non-conforming rights on a regular basis by providing documentation that shows continuous operation and staff stated that the code did not require annual recertification but that it was encouraged as it can be difficult for the property owner to produce documents that go back more than a year. Klein asked if the operation had shown continuous operation since 2000 and staff stated the documentation showed that it had since 2000.

Zuniga asked when the owner found out they didn't have the non-conforming rights and staff stated the research was conducted when the owner submitted the application to recertify the non-conforming use rights. Staff explained the due diligence to research ordinances and aerial photos to determine if the use existed legally prior to any annexation or rezoning of the area.

Cruz asked if the applicant had the proper permits and staff stated that the previous owners received a Certificate of Occupancy based on the previous granting of the non-conforming rights. Staff stated that since the previous granting of non-conforming rights was incorrect, the Certificate of Occupancy was issued in error.

Chairman Ozuna asked if the BOA overturned the Director's decision if the property owner would be required to bring the property up to current code requirements and staff responded that if the BOA determined that the use was a legally permitted use and overturned the director's decision to grant the non-conforming rights, the use would be considered non-conforming and would not need to comply with current design standards.

Velasquez asked if rezoning the property was an option for the property owner to avoid the need to re-certify and staff responded that rezoning is an option to bring the current use of the property into compliance with current zoning regulations.

Garcia asked if the downzoning of the other properties along Roosevelt meant that they could not exist any longer and staff stated that the non-conforming use process would be the same process that property owners could apply for.

Danny Ramirez, applicant, presented his request to the Board and stated that he purchased the property in November 2013 and cleaned up the property in order to apply for both licenses from the state for the auto recycling use and metal recycling use. Mr. Ramirez stated the previous owner owned the property for 17 years prior to and that the previous owner owned it for another 9 years prior. He stated that his non-conforming rights should not expire since he had them when he bought the property and has never closed. He presented CPS receipts as well as city paperwork that showed his use was an "I-1" equivalent use. He further stated that the zoning

changed but it did allow his use before. He presented evidence that showed the use as an auto parts store in the 60s. He stated that when he applied for his Certificate of Occupancy staff should have caught the error instead of now. Mr. Ramirez presented pictures of his property in its current state and improvements that were in progress. He stated that the metal recycling has always been done at the same time as auto recycling, stating that cars had catalytic converters, rims, copper that are removed and stored on his property. These items are required to be entered into a database system as part of a theft prevention process. Mr. Ramirez stated to the Board that he immediately applied for a metal recycling license from the state to bring the property into compliance. He stated that his improvements were compliant based on the fire marshal's inspections.

Velasquez asked Mr. Ramirez why he didn't choose to rezone the property and Mr. Ramirez stated pursuing the non-conforming use was faster instead of rezoning, but he was open to all options. Velasquez stated he was concerned with a Board action of overturning a decision if rezoning of the property was an option.

Garcia asked Mr. Ramirez what the process was to apply for licensing to the state and Mr. Ramirez explained the process.

Quijano asked about industry associations that work together to prevent theft and stated that Mr. Ramirez should go through a rezoning to be in total compliance.

The following citizens appeared to speak:

Albert Van Cleave, attorney for the applicant, stated that evidence showed the property was at least a junkyard back in 1970 and stated they had a witness to collaborate that.

Carlos Valle, citizen, spoke in favor.

Christina Gomez, citizen, spoke in favor.

Alma Ramirez, citizen, spoke in favor.

Toribio Del Angel, citizen, stated he bought his house in 1972 and the use existed.

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-14-070 closed.

MOTION

A motion was made by **Mr. Kuderer to reverse the decision of the Director regarding the denial of recertification of legal non-conforming use rights at the above-referenced location to operate of a "Used Automotive Parts Recycling"; and reverse the decision regarding the denial of certification of legal non-conforming use rights at the above-referenced location to operate a "Metal and Non-Ferrous Material Recycling Facility with or without Outside Storage and/or Processing."**, seconded by Mr. Velasquez.

Kuderer stated that Mr. Ramirez presented a thoughtful and logical case and has earned the right to run his business as both uses. Kuderer stated that the testimony provided overwhelmingly supports his business. Kuderer commended Mr. Ramirez for running a business above and beyond and keeping it there would be a boost for the area.

Velasquez stated that the Certificate of Occupancy issued stated the use was allowed and it was a shame that Mr. Ramirez had to go through this trouble to stay.

Rogers stated that Mr. Ramirez took a leap of faith based on the documentation he had that the use was allowed and provided employment opportunities. She stated the business revitalizes the area and that the Board should help him out since the city made the error.

Quijano stated he would support the motion since Mr. Ramirez was a model businessman.

Zuniga stated he would support the motion.

Neff stated he would support the motion.

Staff repeated the motion to reverse the decision for the denial of the recertification of legal non-conforming use rights at the above-referenced location to operate of a "Used Automotive Parts Recycling"; and restated that for this property to have legal nonconforming rights to operate as a "Used Automotive Parts Recycler" the use would have had to be legally in operation prior to annexation and operated continuously, without an interruption of more than 12 months, since the annexation of the property. This property was annexed in 1952 and zoned Temporary "A" Single Family Residential and since that time has never been zoned industrial.

AYES: Kuderer, Velasquez, Zuniga, Quijano, Klein, Britton, Garcia, Cruz, Neff, Rogers, Ozuna

REUCSAL: Camargo

NAYS: None

Staff repeated the motion to reverse the decision for the denial of certification of legal non conforming use rights at the above-referenced location to operate a "Metal and Non-Ferrous Material Recycling Facility with or without Outside Storage and/or Processing"; and restated that the current zoning of "C-2 MC-1 AHOD" Commercial Roosevelt Avenue Metropolitan Corridor Airport Hazard Overlay District does not permit a Metal Recycling Facility by right, therefore, the metal recycling use cannot be registered as a Non-Conforming Use as the operation was not legally operating in accordance with applicable development regulations and zoning provisions when the use was purportedly established.

AYES: Kuderer, Velasquez, Quijano, Neff, Britton, Cruz, Klein, Garcia, Rogers, Ozuna
RECUSAL: Camargo
NAYS: Zuniga

THE MOTION PASSES.

Mr. Camargo returned to the boardroom at 3:35 pm.

Mr. Camargo departed at 3:41 pm.

CASE NO. A-14-114

Applicant – Darrell Centeno
Lot 21, Block 26, NCB 10553
3684 Culebra Road

Zoned: “C-2 NA CD AHOD” Commercial Non-Alcoholic Sales Airport Hazard Overlay District with a Conditional Use for Motor Vehicle Sales

The applicant is requesting a two foot variance from the four foot maximum as described in 35-514(d) to allow a predominately open fence that is six feet in height in the front yard

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

Darrell Centeno, applicant, stated the fence would provide security for his property to protect his inventory.

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-14-114 closed.

MOTION

A motion was made by **Mr. Velasquez**. “Re Appeal No. **A-14-114**, variance application for a **two foot variance from the four foot maximum as described in 35-514(d) to allow a predominately open fence that is six feet in height in the front yard**, subject property description being **Lot 21, Block 26, NCB 10553**, situated at **3684 Culebra Road**, applicant being **Darrell Centeno**. I move that the Board of Adjustment grant the applicant’s request regarding Appeal No. **A-14-114**, 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 need to secure his business after hours. 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 occurrences of crime in the community. Denying the request of the applicants to build their proposed fence would result in an unnecessary hardship as the applicants business, as well as the inventory, would be subject to vandalism and theft. The spirit of the ordinance is observed and substantial justice is done in that the requested variances may be considered consistent with the spirit of the ordinance because the fence will protect the applicant's business and 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 "C-2 NA CD AHOD". 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 is unlikely to adversely affect the community as the fence will be made of materials that are visually appealing. 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 high property crime rates in the community. These unique circumstances are not created by the owner and are not merely financial in nature." The motion was seconded by Ms. Cruz.

AYES: Quijano, Neff, Velasquez, Britton, Cruz, Zuniga, Klein, Kuderer, Garcia, Rogers, Ozuna

NAYS: None

THE VARIANCE WAS GRANTED.

Mr. Britton made a motion to approve the October 20, 2013 Minutes and Ms. Cruz seconded the motion with all members voting in the affirmative.

