

**BOARD OF ADJUSTMENT
OFFICIAL MINUTES
April 15, 2013**

Members Present:

Michael Gallagher
Andrew Ozuna
Frank Quijano
Edward Hardemon
Helen Dutmer
George Britton
Brian Smith
Mary Rogers
John Kuderer
Gene Camargo
Maria Cruz

Staff:

John Jacks, Assistant Director
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.

Mr. Quijano made a motion to move Case A-13-031 to the end of the agenda. Mr. Hardemon seconded the motion with all members voting in the affirmative.

CASE NO. A-13-032

Applicant – Jason Ramirez
Lot 42, Block 10, NCB 19015
9238 Points Edge
Zoned: “R-6” Residential Single-Family District

The applicant is requesting a 5-foot side yard setback variance to allow a zero lot line dwelling.

Tony Felts, Planner, presented background and staff’s recommendation of approval of the requested variance. He indicated 34 notices were mailed, 3 were returned in favor and none were returned in opposition.

Jason Ramirez, applicant, stated he is requesting this variance to rebuild the structure which previously existed before it was destroyed by a fire. He also stated the structure will be built on the existing foundation. He further stated he was not aware of the obstacles he was going to

encounter when he was in the process of rebuilding. He has invested money on the plans for the house.

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-13-032 closed.

MOTION

A motion was made by **Mr. Camargo**. I would move that in Case No. **A-13-032**, the applicant being **Jason Ramirez**, on property legally described as **Lot 42, Block 10, NCB 19015**, and also known by address of **9238 Points Edge** be granted a **5-foot side yard setback variance to allow a zero lot line dwelling to be constructed on the previously described property**. Specifically, we find that such variance will not be contrary to the public interest in that **of all the notices that were mailed to the adjacent property owners none were returned in opposition, three were returned in favor**. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship in that **it has been shown and presented by the applicant this is an existing slab foundation that is the remains of a structure that was previously constructed while it was outside of the city that has since burned. The applicant's proposal is to reconstruct on the same footprint as previously existed. It should be noted that this particular subdivision was developed with zero lot line homes prior to annexation to the city that imposed zoning regulations and requirements that did not exist while in the county. The spirit of the ordinance is observed and substantial justice is done in that what is proposed to be reconstructed is in harmony with the development that occurred while the property was outside the city limits. 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 property is zoned "R-6" and a single-family home is proposed to be constructed on such property. 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 as indicated previously this is a zero lot line subdivision that developed while it was in the county and in accordance with regulations that existed at that time. 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 are in fact that there is an existing slab where a house previously existed prior to it being demolished due to fire.** The motion was seconded by **Mr. Hardemon**.

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

NAYS: None

THE VARIANCE WAS GRANTED.



CASE NO. A-13-033

Applicant – Jason R Hardy, Meritage Homes
Lo 4, Block 31, NCB 14894
2603 Obera Way
Zoned: “R-5 AHOD” Residential Single-Family Airport Hazard Overlay District

The applicant is requesting a 6-foot, 3.75-inch lot width variance to allow a single-family residence to be constructed on an irregularly shaped lot where the lot is 38 feet, 8.25 inches in width.

Tony Felts, Planner, presented background and staff’s recommendation of approval of the requested variance. He indicated 25 notices were mailed, none were returned in favor and none were returned in opposition and no response from the Thunderbird Hills Neighborhood, Loma Bella Home Owners Association, and Culebra Park Neighborhood Association.

Jason Hardy, applicant, stated they have potential buyers who want to build a house on this lot. He also stated they want to continue the conformity of the neighborhood. He further stated this property was previously platted before the purchase.

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-13-033 closed.

MOTION

A motion was made by **Mr. Ozuna**. Re Appeal No. **A-13-033**, variance application for **Jason R. Hardy with Meritage Homes of Texas LLC, Lot 46, Block 31, NCB 14894**, situated at **2603 Obera Way**, the variance application is for a **6-foot, 3.75-inch lot width variance to allow a single-family residence to be constructed on an irregularly shaped lot where the lot is 38 feet, 8.25-inches in width at the front face**. I move that the Board of Adjustment grant the applicant’s request regarding Appeal No. **A-13-033**, application for a variance to the subject property as described above, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship and I would like to add that the zoning is **“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District**. Specifically, we find that such variance will not be contrary to the public interest in that **the required minimum lot dimensions for lots are designed to ensure that development will, in most cases, be able to comply with all site development standards such as setbacks. The standards also prevent the creation of very small lots that are difficult to develop at their full density potential. In this case, the proposed dwelling will meet all zoning setback requirements, and will 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 ordinance would with recorded easements, reduce to buildable lot width to 74 feet in depth, and would create a situation where the**

uniformity of development in the neighborhood would be compromised. The spirit of the ordinance is observed and substantial justice is done in that **as previously stated, the purpose of minimum lot width is to ensure that development standards can be met. As all development standards can be met, the spirit of the ordinance will be observed.** Such variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the subject property is located in that **the requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the R-5 (Residential) zoning district.** Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located in that **the requested variance, if approved, will not injure the appropriate use of adjacent conforming properties; the variance will allow uniformity of development throughout this neighborhood.** The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located in that **the unique circumstances existing on the property were not caused by the applicant, but rather as a result of the platting of the subdivision in 2007. The condition is a shared responsible area between the platter and the city in granting the approval of the plat that was submitted.** The motion was seconded by Ms. Cruz

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

NAYS: None

THE VARIANCE WAS GRANTED.

CASE NO. A-13-031

Applicant – Charles Huizar

Lot 30, Block 2, NCB 12260

2415 Greencrest Drive

Zoned: “R-5 AHOD” Residential Single-Family Airport Hazard Overlay District

The applicant is requesting 1) a 3-foot variance from the minimum 5-foot side yard setback; 2) a 2-foot variance from the minimum 3-foot eave overhang setback and 3) a 1-foot variance from the 3-foot minimum rear yard setback to allow an accessory structure 2-feet from the side and rear property lines with a 1-foot eave overhang on the side.

Motion

Mr. Quijano made a motion to postpone this case until further notice. Mr. Hardemon seconded the motion with all members voting in the affirmative.

THE MOTION PASSES.

Approval of the Minutes

The April 1, 2013 minutes were approved with all members voting in the affirmative.
