

City of San Antonio



Minutes
Board of Adjustment
Development and Business
Services Center
1901 S. Alamo

Monday, November 18, 2024

1:00 PM

1901 S. Alamo

The meeting was called to by order by Chair Oroian at 1:02 PM and roll was called by Monica Reyes-Urdiales noting the following members present:

Roll Call – Present: Ybanez, Dean, Gomez, Bragman, Vasquez, Bonillas, Kaplan, Oroian, Stevens (via WebEx), Manna (joined at 1:38 pm)

Absent: Brereton, Cruz, Benavides, Ozuna

Worldwide Interpreters present.

THE FOLLOWING ITEMS MAY BE CONSIDERED AT ANY TIME DURING THE REGULAR MEETING:

Item #2

Withdrawn – BOA-23-10300263: A request by Eluterio Tenorio for an appeal from a decision made by the Office of Historic Preservation, located at 620 South Presa Street. (Council District 1) (Vincent Trevino, Senior Planner, (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Item #3

BOA-24-10300209: A request by Ana Villarreal for a Special Exception to allow one (1) additional Type 2 Short Term Rental permit on the block face, per UDC Section 35-374.01(c), located at 319 Burleson Street. Staff recommends Denial. (Council District 2) (Juan Alvarez, Planner (210) 207-7232, Juan.Alvarez2@SanAntonio.gov, Development Services Department)

Staff stated 38 Notices were mailed to property owners, 0 in favor, 1 in opposition. No response from Dignowity Hill Neighborhood Association. No response from the NES Foundation, T.H.U.G.G.I.N for Christ, and Women in Film & Television San Antonio Community Organizations.

Ana Villarreal, applicant, presented the item and was available for questions.

NO PUBLIC COMMENT

A motion was made by Commissioner Bragman. Regarding Case No. BOA-24-10300209, I move that the Board of Adjustment grant a special exception to allow for (1) Type 2 short term rental unit, situated at 319 Burlison Street applicant being Ana Villarreal, 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:

A. The special exception will not materially endanger the public health or safety.

The Board finds that the request to operate an additional short term rental is unlikely to materially endanger the public health, safety, or welfare. There is nothing obvious that would distinguish a short term rental versus a long term rental at this facility.

B. The special exception does not create a public nuisance.

There does not appear to be a reason to believe a public nuisance would be created if an additional short term rental permit was approved.

C. The neighboring property will not be substantially injured by such proposed use.

The neighboring properties consist of single-family structures. This scenario does not cause reason to believe it will substantially injure neighboring property as a Type 2 Short Term Rental.

D. Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary faculties have been or are being provided.

The subject property provides off-street parking and appears to have adequate utilities, access, and open space.

E. The applicant or owner for the special exception does not have any previously revoked short term rental licenses, confirmed citations, or adjudicated offenses convictions for violations of Chapter 16, Article XXII of the City Code within one year prior to the date of the application.

The applicant or owner does not have confirmed citations, or adjudicated offenses or convictions for this property or other properties.

F. 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.

The subject property is located in close proximity to other residential uses. With the property owner providing off-street parking and maintaining it from the neighboring property, the

special exception does not appear to alter the essential character of the district and location in which the property is seeking the special exception.

The motion was seconded by Commissioner Bonillas.

Favor: Bragman, Bonillas, Gomez, Oroian

Opposed: Stevens, Ybanez, Dean, Vasquez, Kaplan

MOTION FAILED

Item #4

BOA-24-10300212: A request by Kenan Whites for a Special Exception to allow one (1) additional Type 2 Short Term Rental permit on the block face, per UDC Section 35-374.01(c), located at 1111 Tiger Path. Staff recommends Denial. (Council District 4) (Joseph Leos, Senior Planner (210) 207-0315, Joseph.Leos@sanantonio.gov, Development Services Department)

Staff stated 28 Notices were mailed to property owners, 1 in favor, 0 in opposition. No registered Neighborhood Association. No response from the NES Foundation, T.H.U.G.G.I.N for Christ, and Women in Film & Television San Antonio Community Organizations.

Alicea Whites, applicant, presented the item and was available for questions.

A motion was made by Commissioner Bonillas. Regarding Case No. BOA-24-10300212, I move that the Board of Adjustment grant a special exception to allow for (1) Type 2 short term rental unit, situated at 1111 Tiger Path, applicant being Kenan Whites, 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:

A. The special exception will not materially endanger the public health or safety.

The Board finds that the request to operate an additional short term rental is unlikely to materially endanger the public health, safety, or welfare. There is nothing obvious that would distinguish a short term rental versus a long term rental at this facility.

B. The special exception does not create a public nuisance.

There does not appear to be a reason to believe a public nuisance would be created if an additional short term rental permit was approved.

C. The neighboring property will not be substantially injured by such proposed use.

The neighboring properties consist of single-family structures and a public school. This scenario does not cause reason to believe it will substantially injure neighboring property as a Type 2 Short Term Rental.

D. Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary faculties have been or are being provided.

The subject property provides off-street parking and appears to have adequate utilities, access, and open space.

E. The applicant or owner for the special exception does not have any previously revoked short term rental licenses, confirmed citations, or adjudicated offenses convictions for violations of Chapter 16, Article XXII of the City Code within one year prior to the date of the application.

The applicant or owner does not have previously revoked licenses, confirmed citations, or adjudicated offenses or convictions; for this subject property, as they only received a notice of violation for operating without a permit and submitted an STR application shortly afterwards.

F. 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.

The subject property is located in close proximity to other residential. With the property owner providing off-street parking and maintaining it from the neighboring property, the special exception does not appear to alter the essential character of the district and location in which the property is seeking the special exception.

The motion was seconded by Commissioner Bragman.

Favor: Dean, Gomez, Vasquez

Opposed: Bonillas, Bragman, Stevens, Ybanez, Kaplan, Oroian

Abstained: Manna

MOTION FAILED

Item #5

(CONTINUED from 11/04/2024) BOA-24-10300168: A request by Johnny Canavan Homes for a 10' variance from the minimum 20' rear setback to allow a 10' rear setback on 7 lots, located at 328 East Sunset Road. Staff recommends Approval. (Council District 10) (Colton Uden, Planner, (210) 207-0120, Colton.Uden2@sanantonio.gov, Development Services Department)

Staff stated 82 Notices were mailed to property owners, 11 in favor, 12 in opposition. 1 in favor and 4 in opposition outside 200'. Oak Park Northwood Neighborhood Association is neutral.

Greg Rubiola, applicant, presented the item and was available for questions.

NO PUBLIC COMMENT

A motion was made by Commissioner Kaplan. Regarding Case No. BOA-24-10300168, I move that the Board of Adjustment grant a request for a 10' variance from the minimum 20' rear setback to allow a 10' rear setback on 7 lots, situated at 328 East Sunset Road, applicant being Johnny Canavan Homes LLC, 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:

1. The variance is not contrary to the public interest.

The rear setback variance is not contrary to the public interest as sufficient space will exist between neighboring properties and structures, and this development layout is not uncharacteristic for the neighborhood in which these properties are located.

2. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.

A literal enforcement of the rear setback ordinance would result in unnecessary hardship as the applicant would need to significantly reduce the living size of the homes on all 7 lots to adjust for the rear setback required.

3. By granting the variance, the spirit of the ordinance will be observed, and substantial justice will be done.

The requested rear setback variance appears to be in the spirit of the ordinance as the lots can maintain a single-family dwelling and no other factors exist that prevent accommodations for a reduced rear setback.

4. The variance will not authorize the operation of a use other than those uses specifically authorized in the zoning district in which the variance is located.

No uses other than those allowed within the district will be allowed with this variance.

5. 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.

Staff finds that the rear setback variance would not substantially injure the appropriate use of adjacent properties as the variance does not appear to directly impact any neighboring properties.

6. 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.

Staff finds the unique circumstances existing on the property is that the restrictions on available living space that should occur if a rear setback variance is not granted.

The motion was seconded by Commissioner Bonillas.

Favor: Kaplan, Bonillas, Stevens, Ybanez, Manna, Bragman, Oroian

Opposed: Dean, Gomez, Vasquez

MOTION FAILED

Item #6

(CONTINUED from 11/04/2024) BOA-24-10300201: A request by Ortiz McKnight, PLLC for a 55' variance from the "IH-1" Northeast Gateway Corridor District's 60' side setback requirement to allow a 5' side setback for residential development on the southern property line, located at 13003 Toepperwein Road. Staff recommends Denial. (Council District 10) (Melanie Clark, Planner, (210) 207-5550 melanie.clark@sanantonio.gov, Development Services Department)

Staff stated 41 Notices were mailed to property owners, 0 in favor, 0 in opposition. No registered Neighborhood Association.

James McKnight, applicant, presented the item and was available for questions.

NO PUBLIC COMMENT

A motion was made by Commissioner Bragman. Regarding Case No. BOA-24-10300201, I move that the Board of Adjustment grant a request for a 55' variance from the "IH-1" Northeast Gateway Corridor District's 60' side setback requirement to allow a 5' side setback for residential development on the southern property line, situated at 13003 Toepperwein Road, applicant being Ortiz McKnight PLLC, 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:

1. The variance is not contrary to the public interest.

Staff finds the reduced side setback to be consistent with other structures in along the corridor in the immediate vicinity, and not out of character for the urban corridor district.

2. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.

Staff found a special condition existing on the property where a literal enforcement of the ordinance does not leave adequate space to fully develop the lot.

3 By granting the variance, the spirit of the ordinance will be observed, and substantial justice will be done.

The request appears to be in the spirit of the ordinance as the requirement is there to protect the urban corridor, and there are other structures along the corridor also within the North East Gateway corridor setback in the immediate vicinity.

4. The variance will not authorize the operation of a use other than those uses specifically authorized in the zoning district in which the variance is located.

No uses other than those allowed within the district will be allowed with this variance.

5. 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.

Proposed development will leave sufficient room from the property and not alter the essential character of the district, as it would adhere to other setback requirements.

6. 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.

Staff finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property and do not appear to be merely financial.

The motion was seconded by Commissioner Manna.

Favor: Bragman, Manna, Stevens, Ybanez, Bonillas, Kaplan, Oroian

Opposed: Dean, Gomez, Vasquez

MOTION FAILED

Item #7

BOA-24-10300146: A request by Yolanda Alvarado for a 19' variance from the minimum 25' clear vision to allow a corner with a 6' clear vision, located at 939 Wallace Street. Staff recommends Denial. (Council District 5) (Colton Unden, Planner, (210) 207-0120, Colton.Unden2@sanantonio.gov, Development Services Department)

Staff stated 41 Notices were mailed to property owners, 0 in favor, 0 in opposition. Los Jardines Neighborhood Association is in opposition. No response from Las Palmas Neighborhood Association.

Arthur, applicant and Ricky Gonzales, property owner, presented the item and requested and were available for questions.

NO PUBLIC COMMENT

A motion was made by commissioner Manna. Regarding Case No. BOA-24-10300146, I move that the Board of Adjustment grant a request for a 19' variance from the minimum 25' clear vision to allow a corner with a 6' clear vision, situated at 939 Wallace Street, applicant being Yolanda Alvarado, 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:

1. The variance is not contrary to the public interest.

The variance to the Clear Vision Standards is not contrary to the public interest as it does observe not appear to alter safety of vehicular traffic for those traveling across the intersection.

2. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.

A literal enforcement of the Clear Vision Standards would result in unnecessary hardship, as the applicant will need to relocate a portion of the fence.

3. By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.

The variance to the clear vision requirements does appear to observe the spirit of the ordinance since the fence is not out of character for the neighborhood and does not appear to alter safety of vehicular traffic.

4. The variance will not authorize the operation of a use other than those uses specifically authorized in the zoning district in which the variance is located.

No uses other than those allowed within the district will be allowed with this variance.

5. 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.

If granted, the variance request will not injure the appropriate use of adjacent conforming properties. Upon site visits, staff found other fences or obstructions in the neighborhood that were encroaching into the corner clear visions.

6. 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.

Staff finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property such as the property owner having limited space to move the fence.

The motion was seconded by Commissioner Bragman.

Favor: Manna, Bragman, Stevens, Ybanez, Dean, Vasquez, Bonillas, Oroian

Opposed: Gomez, Kaplan

MOTION FAILED

Commission went into recess at 2:54 PM and reconvened at 3:02 PM.

Item #8

BOA-24-10300198: A request by Leticia Martinez-Perez for 1) a 9'-11" variance from the minimum 10' front setback requirement to allow a detached carport to be 1" from the front setback, 2) a 4'-11" variance from the minimum 5' side setback to allow an accessory structure to remain 1" from the east side setback, 3) a 4'-6" variance from the minimum 5' side setback to allow an accessory structure to remain 6" from the west side setback, 4) a 2' variance from the minimum 5' rear setback to allow an accessory structure to be 3' from the rear setback, 5) a 49% impervious cover variance to from the maximum 50% impervious cover to allow 99% impervious coverage in the front yard, 6) a 20% lot coverage variance from the maximum 50% lot coverage to allow 70% total coverage for an accessory structure side and rear yard, and 7) a 600 square foot variance from the maximum 2,500 Square foot floor area to allow 3,100 square foot floor area for an accessory structure in the side and rear yard, located at 1010 Steves Avenue. Staff recommends Denial. (Council District 3) (Melanie Clark, Planner, (210) 207-5550, melanie.clark@sanantonio.gov, Development Services Department)

Staff stated 26 Notices were mailed to property owners, 0 in favor, 0 in opposition. The Roosevelt Park Neighborhood Association is in favor.

Leticia Martinez, applicants, presented the item and was available for questions.

PUBLIC COMMENT

Voicemail

Jeff Hunt – in favor

Francisco Macias – in opposition

A motion was made by Commissioner Manna to continue BOA-24-10300198 to the December 16th Board of Adjustment meeting.

The motion was seconded by Commissioner Bragman.

A verbal vote was taken, and all voted in affirmative.

MOTION PASSED

Chair Oroian asked for the Board to pause for quorum purposes, while Commissioner Bonillas stepped out at 3:52 PM. The meeting continued at 3:53 PM.

Item #9

BOA-24-10300203: A request by Ruben Castillo for a 4'-11" variance from the minimum 5' side setback to allow an attached carport to be 1" from the side setback on the west side of the property, located at 462 East Hutchins Place. Staff recommends Denial. (Council District 3) (Melanie Clark, Planner, (210) 207-5550, melanie.clark@sanantonio.gov, Development Services Department)

Staff stated 39 Notices were mailed to property owners, 0 in favor, 0 in opposition. The Harlandale McCollum Neighborhood Association is neutral.

Ruben and Cassandra Castillo, applicants, presented the item and were available for questions.

NO PUBLIC COMMENT

A motion was made by Commissioner Manna. Regarding Case No. BOA-24-10300203, I move that the Board of Adjustment grant a request for a 4'-11" variance from the minimum 5' side setback to allow an attached carport to be 1" from the side setback on the west side of the property, situated at 462 East Hutchins Place, applicant being Rueben Castillo, 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:

1. The variance is not contrary to the public interest.

The request is not contrary to the public interest as a 1" side setback will provide adequate distance between the carport and neighboring properties.

2. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.

A literal enforcement of the ordinance would result in the applicant having to reconstruct the carport to be 5' from the setback, which would result in an unnecessary hardship as the carport would not provide the coverage needed for vehicles.

3. By granting the variance, the spirit of the ordinance will be observed, and substantial justice will be done.

The structure would be 1” from the property line, which observes the spirit of the ordinance as the carport poses no hinderance to the neighboring properties.

4. The variance will not authorize the operation of a use other than those uses specifically authorized in the zoning district in which the variance is located.

No uses other than those allowed within the district will be allowed with this variance.

5. 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.

If granted, the attached carport 1” from the setback would not alter the essential character of the district as similar carport setbacks can be seen in the surrounding area.

6. 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.

Staff finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property such as limited lot size and available space for functional carport.

The motion was seconded by Commissioner Kaplan.

Favor: Manna, Kaplan, Stevens, Ybanez, Gomez, Bragman, Vasquez, Bonillas, Oroian

Opposed: None

MOTION PASSED

Commissioner Dean left the Board of Adjustment meeting at 3:25 PM.

Item #10

BOA-24-10300210: A request by Catherine Garland for 1) a 5’ variance from the maximum 45’ sign height (to include 10’ for adjacent grade) to allow a 50’ sign height and 2) a 93 square foot variance from the maximum 200 sign square footage to allow a 293-sign square footage, located at 26642 Bulverde Road. Staff recommends Denial. (Council District 9) (Colton Uden, Planner, (210) 207-0120, Colton.Uden2@sanantonio.gov, Development Services Department)

Staff stated 5 Notices were mailed to property owners, 0 in favor, 0 in opposition. No Registered Neighborhood Association within 200’.

Cathy Garland, applicant, presented the item and was available for questions.

NO PUBLIC COMMENT

A motion was made by Commissioner Kaplan. Regarding Case No. BOA-24-10300210, I move that the Board of Adjustment grant a request for 1) a 5’ variance from the maximum 45’ height (to

include 10' additional grade) to allow a 50' height sign and 2) a 93 square feet variance from the maximum 200 square feet to allow a 293 square feet sign, situated at 26642 Bulverde Road, applicant being Cathy Garland, 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:

1. *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; or*
2. *A denial of the variance would probably cause a cessation of legitimate, longstanding active commercial use of the property.*

The property is currently permitted a 45' sign height (to include 10' additional grade) at 200 square feet. The permitted dimensions make the variance 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, and topography.

3. *After seeking one or more of the findings set forth in subparagraphs (1) and (2), the Board finds that:*

- A. Granting the variance does not provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.

The proposed sign does not appear to provide a special privilege as the sign will not be out of character in the area in which the sign is located and will be consistent with other similar approved signs erected in the city under this business.

- B. Granting the variance will not have a substantially adverse impact on neighboring properties.

The proposed variance does not appear have an adverse impact on neighboring properties as the sign height will not be out of character for the area and district in which the property is located.

- C. Granting the variance will not substantially conflict with the stated purposes of this article.

The requested variance does not appear to substantially conflict with the stated purpose of the Chapter. Furthermore, the requested sign exceeding the 45' in height and 200 square feet size will not be out of character for the immediate area in which the property is located.

The motion was seconded by Commissioner Bonillas.

Favor: Kaplan, Bonillas, Ybanez, Dean, Gomez, Bragman, Vasquez, Oroian

Opposed: Stevens, Manna

MOTION FAILED

Item #11

BOA-24-10300211: A request by Efrain Bermudez for a 9'-11" variance from the minimum 10' front setback to allow an attached carport to be 1" from the front setback, located at 4150 Barrington Street. Staff recommends Denial. (Council District 10) (Melanie Clark, Planner, (210) 207-5550, melanie.clark@sanantonio.gov, Development Services Department)

Staff stated 31 Notices were mailed to property owners, 1 in favor, 0 in opposition. No registered Neighborhood Association.

Efrain Bermudez, applicant, presented the item and was available for questions.

PUBILC COMMENT

Voice mail

Kelly Manuel – in favor

Commissioner Bonillas made a motion to continue BOA-24-10300211 to the December 2nd Board of Adjustment meeting.

The motion was seconded by Commissioner Kaplan.

A verbal vote was taken, and all voted in affirmative.

MOTION PASSED

Item #12

BOA-24-10300213: A request by Victor Salgado for 1) a 16'-4" variance from the minimum 20' rear setback to allow a 3'-8" rear setback and 2) a 6" variance from the minimum 4'-6" side setback to allow a 4'-6" side setback, located at 814 South San Eduardo Avenue. Staff recommends Denial for the Rear Setback Variance. Staff recommends Approval for the Side Setback Variance. (Council District 5) (Colton Unden, Planner, (210) 207-0120, Colton.Unden2@sanantonio.gov, Development Services Department)

Staff stated 42 Notices were mailed to property owners, 1 in favor, 1 in opposition. No response from the Las Palmas Neighborhood Association.

Victor Salgado, applicant, presented the item and was available for questions.

PUBILC COMMENT

In person

Oralia Salazar – in favor

Chair Oroian made a motion to continue BOA-24-10300213 to the December 2nd Board of Adjustment meeting.

The motion was seconded by Commissioner Bragman.

A verbal vote was taken, and all voted in affirmative.

MOTION PASSED

Item #13

Approval of the minutes from the Board of Adjustment meetings on November 4, 2024.

A motion was made by Commissioner Manna for approval of the November 4, 2024, minutes.

The motion was seconded by Bragman.

A verbal vote was taken, and all voted in affirmative.

MOTION PASSED

Director's Report – None

Adjournment

There being no further business, the meeting was adjourned at 4:56 PM.

APPROVED BY: _____ or _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary