

City of San Antonio



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

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Monday, December 4, 2023

1:00 PM

1901 S. Alamo

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**1:00 PM – Call to Order**

**Worldwide Interpreter presented.**

**Roll Call – Present:** Brereton, Kaplan, Cruz (Via Teams), Manna (Via Teams), Benavides, Bragman, Bonillas, Zuniga, Dean, Oroian, Riahi (Via Teams)

**Absent:** Ozuna

**Postponed**

Item #2 BOA-23-10300307- located at 425 Parland Place.

**Item #1**

**BOA2310300298:** (Continued from November 20, 2023) A request by Marion Sanchez for a parking adjustment to waive the one (1) required off-street parking space for a Short-Term Rental, located at 1611 North Palmetto. Staff recommends Denial. (Council District 2) (Juan Alvarez, Planner (210) 2077232, Juan.Alvarez2@SanAntonio.gov, Development Services Department)

Staff stated 24 notices were mailed to property owners, 0 returned in favor, 1 returned in opposition, and no response from Government Hill Alliance Neighborhood Association.

Marion Sanchez, applicant, stated 4 letters were brought in support to include one from her immediate neighbor. Additionally, Ms. Sanchez was able to do a clean survey and contacted several contractors for quotes on the onsite parking. None of the contractors committed to building a parking space due to lot size.

**No Public Comment**

**Motion**

A motion was made by Commissioner Benavides. Regarding Case No. **BOA-23-10300298**, I move that the Board of Adjustment grant a request for a parking adjustment to waive the one (1) required off-street parking space for a Short-Term Rental unit, situated at 1611 North Palmetto, applicant being Marion Sanchez, 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:

*The applicant has successfully demonstrated that they meet the criteria for a parking waiver.*

*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. The property does not have space to allow off street parking but does have access to 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 does not have any history of revocation, citations, or convictions for violations of Chapter 16.**

*F. With the property owner being unable to provide off street parking 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.

Commissioner Brereton offered a friendly amendment to revise the wording of the resolution. Commissioner Benavides and Commissioner Bragman accepted.

**Favor:** Brereton, Kaplan, Bonillas, Cruz, Zuniga, Benavides, Manna, Riahi, Bragman, Oroian  
**Opposed:** Dean

## **MOTION PASSES**

Chair Oroian exited at 1:25pm for recusal purposes.

### **Item #7**

**BOA-23-10300301:** A request by ADA Consulting Group, Inc. for 1) a 2' variance from the minimum 5' side setback requirement to allow a structure to be 3' from the eastern property line of Lot 40, 2) a 1' variance from the minimum 5' side setback requirement to allow a structure to be 4' from both side property lines on Lot 41, 3) a 2' variance from the minimum 5' side setback requirement to allow a structure to be 3' from the western property line of Lot 42, 4) a request to allow three separate structures on an "RM-4" lot less than 1/3 of an acre, and 5) a variance from the front entry oriented to the primary street to allow a side door orientation, located at 627 Essex Street. Staff recommends Approval for Side Setback Variances. Staff recommends Denial for Separate Structure and Front Door Orientation Variances. (Council District 2) (Joseph Leos, Planner (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department)

Staff stated 33 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and the Denver Heights Neighborhood Association is in opposition of the requests.

Enrique Agurcia and Gary Sanchez, applicants are seeking variances to have a larger building with wider halls and larger rooms and green space. Although a 15' building is allowed a 17' building is preferred. Mr. Sanchez has contacted the Denver Heights Neighborhood Association he has received any feedback on their opposition.

## **Public Comment**

## **Voicemails**

Isidra and Pablo Irazeta, stated their opposition.

**In Person**

Elsa Guzman, stated she prefers that applicants build a single family home.

**Rebuttal**

Applicants will have multiple projects and want the Neighborhood Association on their team.

**Motion**

A motion made by Commissioner Benavides to continue Case No. **BOA 23-10300298** to December 18, 2023, and was seconded by Commissioner Bragman.

**Favor:** Brereton, Kaplan, Cruz, Manna, Benavides, Bragman, Oroian, Riahi, Bonillas

**Opposed:** Dean

**Recused:** Oroian

**MOTION PASSES**

**Item #8**

**BOA-23-10300302:** A request by ADA Consulting Group, Inc. for 1) a variance to allow two separate structures on an "RM-4" that is less than one-third of an acre, and 2) 2'-6" variance from the minimum 20' garage setback to allow a 17'-6" garage front setback, located at 803 South Palmetto Street. Staff recommends Approval for Garage Front Setback Variance. Staff recommends Denial for Separate Structure Variance. (Council District 2) (Colton Unden, Planner (210) 207-0120, colton.unden2@sanantonio.gov, Development Services Department)

Staff stated 34 notices were mailed to property owners, 1 returned in favor, 0 returned in opposition, and the Denver Heights Neighborhood Association is in opposition of the requests.

Enrique Agurcia and Gary Sanchez, applicants presented what is allowed and what would be done with BOA approval. They are requesting to build something with separated units to allow more parking and permeable pavers. Fire codes and guidelines will be followed as needed.

**No Public Comment**

**Motion**

A motion was made by Commissioner Dean to continue Case No. **BOA 23-10300302** to December 18, 2023, and was seconded by Commissioner Brereton.

**Favor:** Brereton, Dean, Cruz, Manna, Riahi, Zuniga

**Opposed:** Kaplan, Benavides, Bragman, Bonillas

**Recused:** Oroian

**MOTION PASSES**

Chair Oroian returned at 2:18 pm.

**Item #3**

**BOA-23-10300304**: A request by Circle R Ventures, LLC for 1) a 2-parking space waiver from the minimum 2-parking space to allow a development with no parking spaces, or 2) a half-story variance from the maximum two and a half story to allow multi-family structures to be three stories tall within the 50' residential setback, located at 301 Piedmont Avenue. Staff recommends Approval for Half-Story Variance. Staff recommends Denial for Parking Space Waiver. (Council District 2) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 27 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and Denver Heights Neighborhood association is in opposition of the request.

Lidia Rodriguez and Ruben Rivas, applicants requested a 3-story home with the bottom floor for the additional parking or get a variance for the off-street parking.

**No Public Comment****Motion**

A motion was made by Commissioner Kaplan. Regarding Case No. BOA-23-10300304, I move that the Board of Adjustment grant a request for 1) a half-story variance from the maximum two and a half story to allow multi-family structures to be three stories tall within the 50' residential setback, situated at 301 Piedmont Avenue, applicant being Circle R Ventures, 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.*

**Staff finds these requests are not contrary to public interest, as a towering structure will not impose onto the interest of the single-family residential uses.**

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

**This would result in an unnecessary hardship as there is limited spacing on the property to abide by the requirements.**

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

**The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. The structure would be 3 stories in height, which observes the spirit of the ordinance due to the size of the lot and the proposed square footage of the structure.**

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.*

**The requested variances will not substantially injure the appropriate use of adjacent conforming properties or alter the essential character of the district.**

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 applicant not having sufficient height for the proposed use. The circumstances do not appear to be merely financial.**

The motion was seconded by Commissioner Bragman.

Chair Oroian offered a friendly amendment to remove the parking variance and limiting it to Unit 101.

Commissioner Kaplan and Commissioner Bragman accepted.

Chair Oroian removed his friendly amendment to rescind amendment on Unit 101.

Commissioner Kaplan and Commissioner Bragman accepted.

**Favor:** Kaplan, Bragman, Brereton, Riahi, Cruz, Manna, Benavides, Oroian, Zuniga, Bonillas  
**Opposed:** Dean

**MOTION PASSES**

**Item #4**

**BOA-23-10300306:** A request by Texas Ascending Homes for 1) a variance to allow two separate structures on an "RM-4" that is less than one-third of an acre, 2) a half story variance from the maximum 2.5 stories to allow a structure with 3 stories, and 3) a 2-parking space waiver from the minimum 6-parking spaces to allow 4-parking spaces, located at 706 Martin Luther King Drive.

Staff recommends Denial. (Council District 2) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 33 notices were mailed to property owners, 1 returned in favor, 0 returned in opposition, and Denver Heights Neighborhood Association is in opposition of the request.

Fernando Botello, applicant, stated 2 duplexes were in the process of being built, with a Certificate of Determination and an address issued. Due to new ordinances, the applicant is requesting the variances.

### No Public Comment

### Motion

A motion was made by Commissioner Bragman. Regarding Case No. BOA-23-10300306, I move that the Board of Adjustment grant a request for 1) a variance to allow two separate structures on an "RM-4" that is less than one-third of an acre, 2) a half story variance from the maximum 2.5 stories to allow a structure with 3 stories, and 3) a 2-parking space waiver from the minimum 6-parking spaces to allow 4-parking spaces, situated at 706 Martin Luther King Drive, applicant being Texas Ascending Homes, 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 requested variances and parking waiver are not contrary to the public interest as they will not jeopardize the general health, safety and welfare of the public.**

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

**The size and configuration of the lot would not allow development to provide adequate parking spaces, four dwelling units in one structure and the third story.**

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

**Deviating from the single structure requirement will not cause the lot from becoming overcrowded. Additionally, the 3-story structure and the reduced parking requirement will observe the spirit of the ordinance.**

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.

**The current lot has adequate size to allow for two separate structures. Additionally, the reduced parking will allow for the development of the structure without reducing the square footage.**

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 applicant not having sufficient height for the proposed use. The circumstances do not appear to be merely financial.**

The motion was seconded by Commissioner Benavides.

Commissioner Manna offered a friendly amendment to restrict only to a roof top terrace. Commissioner Kaplan and Commissioner Benavides accept the friendly amendment.

**Favor:** Bragman, Manna, Brereton, Kaplan, Cruz, Zuniga, Benavides, Ozuna, Bonillas

**Opposed:** Dean

**Absent:** Riahi

**MOTION PASSES**

**The Board went into recess at 2:55 pm and reconvened at 3:06 pm.**

**Item #5**

**BOA-23-10300311:** A request by Titan Sign Company for a 29'-8" variance from the maximum 40' sign height allowance, to allow a 69'-8" tall single-tenant sign, located at 1956 South WW White Road. Staff recommends Denial. (Council District 3) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 18 notices were mailed to property owners, 1 returned in favor, 1 returned in opposition, and Jupe Manor is in opposition of the request.

Kathy Saw (Titan Sign Company) and Angela White (CEO of CASA), came to the podium. Angela states CASA serves foster children. The electronic sign build board



would serve the community in a more effective way. With the electronic signage communication would always be available to the community.

Edward Rodriguez, Sr. Sign Inspector, came to the podium to answer questions regarding height requirements.

### Public Comment

### Voicemails

Citizen (Cartoon Lane), stated their opposition.

### Motion

A motion was made by Commissioner Kaplan. Regarding Case No. BOA-23-10300311, I move that the Board of Adjustment grant a request for a 29'-8" variance from the maximum 40' sign height to allow a 69'-8" tall single-tenant sign, situated at 1956 South WW White Road, applicant being Titan Sign Company, 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 currently qualifies for a sign 40' in height/240 square feet for a single-tenant sign. The applicant is requesting a variance to erect a new sign at 69'-8" in height. The variance is necessary in this case.**

*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 existing sign cabinets cannot be replaced and there are other signs of this height or square footage in the surrounding area.**

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

**The proposed variance will not have an adverse impact on neighboring properties.**

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

**A sign exceeding the 69'-8" in height requirement will not substantially conflict with the sign regulations standards.**

The motion was seconded by Commissioner Benavides.

**Favor:** Riahi, Kaplan, Benavides, Bragman, Bonillas

**Opposed:** Brereton, Dean, Cruz, Zuniga, Manna, Oroian

## **MOTION FAILS**

### **Item #6**

**BOA-23-10300270:** A request by Juan Alonso for 1) a 4' special exception from the maximum 3' fence height to allow a 7' privacy fence in the front yard, and 2) a 19' variance from the minimum 20' from the front property line, to allow a garage entry to be 1' from the front setback, located at 5578 Mount McKinley Drive. Staff recommends Denial. (Council District 6) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 14 notices were mailed to property owners, 6 returned in favor, 17 returned in opposition, and Mountain View Acres Neighborhood Association in favor of the request.

Juan Alonso and Juan Alonso Jr., applicants requested the variance for safety and to keep people from trespassing. Mr. Alonso, amended the application to include a 7' fence to the northern part of the home extended to the north.

## **No Public Comment**

### **Motion**

A motion was made by Commissioner Bonillas. Regarding Case No. BOA-23-10300270, I move that the Board of Adjustment grant a request for a 4' special exception from the maximum 3' fence height to allow a 7' privacy fence in the front yard limited to the right of the garage north of the home, situated at 5578 Mount McKinley Drive, applicant being Juan Alonso, 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 be in harmony with the spirit and purpose of the chapter*

**The fence height being requested is a 7' fence in the front yard to the north direction to the right of the garage . If granted, staff finds the request would be in harmony with the spirit and purpose of the ordinance.**

*B. The public welfare and convenience will be substantially served.*

**The proposed fence being requested will be located along the front yard and is exceeding the maximum height requirement by 4' for a fence. The fence will still serve the public welfare and convenience.**

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

**The fence will create enhanced security and privacy for the subject and adjacent properties.**

*D. 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 additional fence height in the front yard of the subject property does not appear to alter the location for which the special exception is sought. The 7' fence height will not alter the essential character of the district.**

*E. The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district*

**The requested special exception will not weaken the general purpose of the district.**

The motion was seconded by Commissioner Benavides.

**Favor:** Kaplan, Manna, Dean, Brereton, Riahi, Cruz, Benavides, Bragman, Zuniga, Oroian,  
**Opposed:** None

## **MOTION PASSES**

Chair Oroian called for a motion for the variance.

The case dies for lack of motion. No action taken.

## **Item #9**

**BOA-23-10300308:** A request by Jeffrey Paez for 1) a 3' special exception from the maximum 3' fence height to allow a 6' privacy fence in the front yard, and 2) a 5' variance from the minimum 15' driveway clear vision to allow a 10' driveway clear vision, located at 7434 Fieldgate Drive. Staff recommends Approval for the Clear Vision Variance. Staff recommends Denial for the Fence Height Special Exception. (Council District 6) (Bronte Frere, Planner (210) 207-5876, bronte.frere@sanantonio.gov, Development Services Department).

Staff stated 30 notices were mailed to property owners, 0 returned in favor, 6 returned in opposition, and there is no neighborhood Association within 200'.

Jeffery Paez, applicant, stated he is a dog breeder and needs the variance for privacy and protection of his kids and dogs.

### **No Public Comment**

### **Motion**

A motion was made by Commissioner Manna. Regarding Case No. BOA-23-10300308, I move that the Board of Adjustment grant a request for a 3' special exception from the maximum 3' fence height to allow a 6' combined fence in the front yard, situated at 7434 Fieldgate Drive, applicant being Jeffrey Paez, 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 be in harmony with the spirit and purpose of the chapter.*

**The special exception fence height being requested is a 6' combined fence for the front of the yard. The request would be in harmony with the spirit and purpose of the ordinance, as the proposed fence would provide an element of security and privacy for the property owner.**

*B. The public welfare and convenience will be substantially served.*

**In this case, these criteria are represented by fence heights to protect property owners while still promoting a sense of community. The proposed combined fence appears to serve the public welfare and convenience, as the fence provides an element of security to the property owner.**

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

**The fence variance will provide enhanced security and privacy for the subject and adjacent properties.**

*D. 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 additional fence height in the front yard of the subject property does not appear to alter the location for which the special exception is sought and does not appear to alter the essential character of the district.**

*E. The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district*

**The requested special exception will not weaken the general purpose of the district.**

The motion was seconded by Commissioner Kaplan

The motion by Commissioner Manna was retracted.

Case dies for lack of motion. No action taken.

### **Motion**

A motion was made by Commissioner Bragman Regarding Case No. BOA-23-10300308, I move that the Board of Adjustment grant a request for a 5' variance from the minimum 15' driveway clear vision to allow a 10' driveway clear vision, situated at 7434 Fieldgate Drive, applicant being Jeffrey Paez, 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 that this request is not contrary to the public interest as the reduced clearvision for the driveway allows for adequate sight for oncoming vehicles.**

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

**A literal enforcement of the ordinance does not leave room to build a fence along the property line and have adequate room for vehicle storage on the property's driveway.**

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

**The reduced clear vision requirement for the driveway will observe the spirit of the ordinance and still provides adequate sight for oncoming vehicles.**

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 reduced clear vision leaves sufficient room from the right of way while not altering the essential character of the district.**

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 due to unique circumstances existing on the property. The development provides limited options to rearrange the development and meet the minimum clear vision requirements.**

The motion was seconded by Commissioner Kaplan

**Favor:** Bragman, Benavides, Bonillas, Brereton, Cruz

**Opposed:** Brereton, Dean, Manna, Oroian, Kaplan, Zuniga,

## **MOTION FAILS**

### **Item #10**

**BOA-23-10300309:** A request by Anna Liebers for 1) a 11'-6" variance from the required minimum 16'-6" to allow a 5' front setback, 2) a full story variance from the maximum 2.5 stories to allow a structure with 3 ½ stories, and 3) a variance from the front entry oriented to the primary street to allow a side door orientation, located at 146 Valdez Avenue. Staff recommends Denial. (Council District 1) (Joseph Leos, Planner (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department)

Staff stated 25 notices were mailed to property owners, 0 returned in favor, 3 returned in opposition, and The Tobin Hill Neighborhood Association is in opposition of the requests.

Anna Liebers, applicant, stated with approval and contraction underway options are limited.

## **Public Comment**

### **In Person**

Rick Schell, was in opposition.

### **Motion**

A motion was made by Commissioner Kaplan to continue Case No. BOA 23-10300309 to December 18, 2023, and was seconded by Commissioner Cruz.

**Favor:** Brereton, Cruz, Manna, Benavides Riahi, Kaplan, Benavides, Bragman, Bonillas, Oroian

**Opposed:** Dean

## **MOTION PASSES**

### **Item #12**

**BOA-23-10300175:** A request by MiCaza Design Architecture for 1) an 826 square feet variance from the minimum 4,000 square feet lot to allow a 3,174 square feet lot, 2) a 4'-7"

variance from the minimum 10' rear setback requirement to allow a structure to be 5'-5" from the rear property line, and 3) a variance from the maximum 50% impervious cover requirement to allow the front yard to exceed the maximum 50% impervious cover, located at 818 Virginia Boulevard. Staff recommends Approval. (Council District 2) (Joseph Leos, Planner (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department)

Staff stated 40 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and Denver Heights Neighborhood Association is in support of the requests.

Rolando Castro, representative, came to the podium and stated he intendeds to build a 2-story duplex.

### **No Public Comment**

### **Motion**

A motion was made by Commissioner Bragman. Regarding Case No. BOA-23-10300175, I move that the Board of Adjustment grant a request for 1) an 826 square feet variance from the minimum 4,000 square feet lot to allow a 3,174 square feet lot, 2) a 4'-7" variance from the minimum 10' rear setback requirement to allow a structure to be 5'-5" from the rear property line, and 3) a variance from the maximum 50% impervious cover requirement to allow the front yard to exceed the maximum 50% impervious cover, situated at 818 Virginia Boulevard, applicant being MiCaza Design Architecture, 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.

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

**The special condition found on the subject property is that it is a non-conforming lot of record, and since the lot does not meet the minimum lot size, the enforcement of the minimum rear setback of 20' and maximum 50% impervious coverage requirements would be challenging.**

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

**Staff finds the spirit of the ordinance will be observed, as the applicant is abiding by all other building requirements.**

- 3. 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.**

*4. 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 the requests will not injure the appropriate use of adjacent conforming properties or alter the essential character of the district, as other lots in the area appear to not abide by the minimum lot size standards, rear setback requirements, and impervious coverage requirements.**

*5. 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 size of the lot. The circumstances do not appear to be merely financial.**

The motion was seconded by Commissioner Kaplan.

**Favor:** Brereton, Kaplan, Cruz, Manna, Benavides, Bragman, Bonillas, Zuniga, Dean, Oroian, Riahi

**Opposed:** None

**MOTION PASSES**

**Commission went into recess at 4:38 pm and reconvened at 4:48 pm.**

**Item #11**

**BOA-23-10300310:** A request by Francisco Gomez for a variance from the fence materials to allow for a corrugated metal fence in the side and rear yard, located at 9103 Seafarer Drive. Staff recommends Denial. (Council District 4) (Bronte Frere, Planner (210) 207-5876, bronte.frere@sanantonio.gov, Development Services Department).

Staff stated 35 notices were mailed to property owners, 10 returned in favor, 0 returned in opposition, and there is no Neighborhood Association within 200’.

Francisco Gomez, applicant, stated he built the fence for protection. His fence has been taken out twice due to vehicle collision.

**Public Comment**

**Voicemails**

Edith Lopez, spoke in favor.

Katherine Palasquez, spoke in favor.

Monica Saragoza, spoke in favor.



Ms. Renteria, spoke in favor.

**Motion**

A motion was made by Commissioner Manna. Regarding Case No. BOA-23-10300310, I move that the Board of Adjustment grant a request for a variance from the fence materials to allow for a corrugated metal fence in the side and rear yard, situated at 9103 Seafarer Drive, applicant being Francisco Gomez, 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 corrugated metal provides an element of safety and security to the property.**

*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 an unnecessary hardship as the applicant would need to rebuild the already constructed fence.**

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

**The structure appears to observe the spirit of the ordinance, as the fence provides an element of security.**

*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 property will be allowed the prohibited fence material, and will not substantially injure the appropriate use of adjacent conforming properties or alter the essential character of the district in which the property is located.**

*3. 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, as the circumstances do not appear to be merely financial.**

The motion was seconded by Commissioner Bonillas.

Favor: Riahi, Cruz, Brereton, Manna, Benavides, Bragman, Ozuna, Dean, Bonillas

Opposed: Zuniga, Kaplan

### **MOTION PASSES**

Commissioner Cruz left the meeting at 5:22pm.

### **Item #13**

**BOA-23-10300299:** A request by Mark Taylor for 1) a 5' special exception from the maximum 3' fence height to allow an 8' solid screened fence in the front yard, 2) a 2' special exception from the maximum 5' fence height requirement to allow a 7' predominately open fence in the front yard, and 3) a 1' special exception from the maximum 6' fence height requirement to allow a 7' predominately open fence in the side and rear yards, located at 7231 Stonewall Bend. Staff recommends Approval. (Council District 8) (Joseph Leos, Planner (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department)

Staff stated 24 notices were mailed to property owners, 1 returned in favor, 0 returned in opposition. The subject property is not located within the boundaries of a Neighborhood Association.

James Griffin, representative, came to the podium to request special exceptions for a luxury car condo project. Individual garages away from your home was the concept presented.

### **No Public Comment**

### **Motion**

A motion was made by Commissioner Kaplan. Regarding Case No. BOA-23-10300299, I move that the Board of Adjustment grant a request for 1) a 5' special exception from the maximum 3' fence height to allow an 8' solid screened fence in the front yard, and 2) a 2' special exception from the maximum 5' fence height requirement to allow a 7' predominately open fence in the front yard, situated at 7231 Stonewall Bend, applicant being Mark Taylor 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 special exception will be in harmony with the spirit and purpose of the chapter.*

**The additional fence height is intended to provide safety and security of the applicant's property. If granted, the request will be in harmony with the spirit and purpose of the chapter.**

2. *The public welfare and convenience will be substantially served.*

**The additional fence height will provide security and privacy for the subject and adjacent properties. This is not contrary to the public interest.**

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

**The fence will create enhanced security and privacy for the subject and adjacent properties. Furthermore, the fencing provides a suitable separation from the adjacent uses and zoning districts.**

4. *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 additional fence height of the subject property does not appear to alter the location for which the special exception is sought, as the abutting base zoning districts are commercially and residentially zoned. Additionally, the property is zoned for more intense commercial uses so allowing additional fence height would be beneficial to surrounding residential properties.**

5. *The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district.*

**The property is located within the "C-3" Commercial District and permits the current use. The requested special exception will not weaken the general purpose of the district.**

The motion was seconded by Commissioner Bonillas.

Favor: Brereton, Riahi, Manna, Benavides, Bragman, Kaplan, Dean, Zuniga, Bonillas

Opposed: None

## **MOTION PASSES**

### **Motion**

A motion was made by Commissioner Bragman to continue Case No. **BOA 23-10300303** to December 18, 2023.

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

## **MOTION PASSES**

**Item #16**

Approval of the minutes from the Board of Adjustment meeting on November 20, 2023.

A motion was made by Commissioner Bragman and seconded by Commissioner Kaplan.

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

**Director's Report** – nothing to report.

**Adjournment**

There being no further business, the meeting was adjourned at 5:49 PM.

APPROVED BY: \_\_\_\_\_ or \_\_\_\_\_  
Chairman Vice-Chair

DATE: \_\_\_\_\_

ATTESTED BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Executive Secretary