

City of San Antonio



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

Monday, June 17, 2024

1:00 PM

1901 S. Alamo

The meeting was called to by order by Chair Oroian at 1:09 PM and roll was called by Monica Reyes-Urdiales noting the following members present:

Roll Call – Present: Brereton, Stevens, Ybanez, Dean, Cruz, Manna, Bragman, Benavides, Ozuna, Oroian, Vazquez

Absent: Gomez

Worldwide Interpreters present.

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

Item #1

(Continued from 5/20/2024) BOA-24-10300061: A request by Philip Kraemer for 1) a fencing material variance to allow corrugated metal on the side and rear yard, 2) a 4’-11” variance from the minimum 5’ setback to allow a structure with a 1” side setback, 3) a 2’ special exception from the maximum 6’ height to allow an 8’ privacy fence on the side and rear yards, 4) a variance from the Beacon Hill Area Neighborhood Conservation District carport vertical support or structure elements to match principal structure materials, 5) a 4’-11” variance from the minimum Beacon Hill Area Neighborhood Conservation District 5’ carport recess standard to allow a 1” carport recess from the front façade, located at 723 West Elsmere Place. Staff recommends Denial. (Council District 1) (Melanie Clark, Planner, (210) 207-5550, melanie.clark@sanantonio.gov, Development Services Department)

Staff stated 35 Notices were mailed to property owners, 0 returned in favor, 2 returned in opposition. Beacon Hill Neighborhood Association is in favor 3 of the 5 variances.

Philip Kraemer, applicant, spoke of need for requests and the willingness to make adjustments to have requests passed. Applicant verbally amended application, so the carport is not enclosed along

the property line. Applicant also amended application to include capping the top of the lowered 6' fence.

Public Comment

Voicemail

Daniel Humbling, representing the Beacon Hill Neighborhood Association, stated they do not support the corrugated metal variance, will support the side setback variance if there is an opening on the neighboring side. Does not support the fence height special exception or the principal structure material variances. Supports carport recess variance.

Philip Kraemer, applicant, presented item and was available for questions.

A motion was made by Commissioner Ozuna. Regarding Case No. BOA-24-10300061, I move that the Board of Adjustment grant a request for 1) a fencing material variance to allow corrugated metal on the side and rear yard, 2) a 4'-11" variance from the minimum 5' setback to allow a structure with a 1" side setback, 3) a variance from the Beacon Hill Area Neighborhood Conservation District carport vertical support or structure elements to match principal structure materials, and 4) 4'-11" variance from the minimum Beacon Hill Area Neighborhood Conservation District 5' carport recess standard to allow a 1" carport recess from the front façade, situated at 723 West Elsmere Place, applicant being Philip Kraemer, 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 carport, as constructed and current location, allows for routine maintenance without trespass, which is not contrary to the public interest.

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 unnecessary hardship as the applicant would be reduced in covered parking and suitable fencing material.

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

The spirit of the ordinance will be observed as the fencing material provides proper separation between lots and the carport will provide sufficient cover for 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.

Staff finds the granting of the variances will not substantially injure the appropriate use of adjacent conforming properties as the variances are located inside the subject property.

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 variances are sought is due to unique circumstances existing on the property such as the additions to the property were inherited by the current property owner and narrowness of the lot reduces the area space needed for covered parking.

The motion was seconded by Commissioner Bragman.

A friendly amendment was made by Commissioner Manna, to remove Item #1.

The motion was seconded by Commissioner Oroian.

Favor: Brereton, Stevens, Manna

Opposed: Ybanez, Dean, Cruz, Benavides, Bragman, Vasquez, Ozuna, Oroian

MOTION FAILED

Chair Oroian reopened Public Hearing and the applicant spoke of keeping corrugated metal fence for privacy and safety.

The original motion was made by Commissioner Ozuna and seconded by Commissioner Bragman.

Favor: Stevens, Ybanez, Benavides, Bragman, Vasquez, Ozuna, Oroian

Opposed: Brereton, Dean, Cruz, Manna

MOTION FAILED

A motion was made to reconsider by Commissioner Brereton.

The motion was seconded by Commissioner Manna.

MOTION PASSED IN THE AFFIRMATIVE

A motion was made by Commissioner Ozuna for the original motion except for Item #1.

The motion was seconded by Commissioner Bragman.

Favor: Ozuna, Bragman, Brereton, Ybanez, Dean, Cruz, Benavides, Manna, Vasquez, Ozuna, Oroian

Opposed: None

MOTION PASSED

Chair Oroian made a for the Board of Adjustment to grant a request for fencing material to allow corrugated metal with cap only along rear of the home, limited to 6' in height with all other findings kept the same. Motion was seconded by Commissioner Manna.

Favor: Ozuna, Bragman, Brereton, Ybanez, Dean, Cruz, Benavides, Manna, Vasquez, Ozuna, Oroian

Opposed: None

MOTION PASSED

Commissioner Ibanez stepped out at 1:52 PM from the Board of Adjustment meeting and returned at 1:55 PM.

ITEM #2

(Continued from 6/3/2024) BOA-24-10300062: A request by the Law Office of EAR PLLC for 1) a 15' variance from the minimum 30' setback to allow a structure with a 15' rear setback, 2) a 15' variance from the minimum 15' buffer to allow an elimination of the buffer requirements on the front yard, and 3) a 5' variance from the minimum 20' setback to allow a 15' side setback, located at 12102 Huebner Road. Staff recommends Denial. (Council District 8) (Colton Uden, Planner, (210) 207-0120, Colton.Uden2@sanantonio.gov, Development Services Department)

Staff stated 21 Notices were mailed to property owners, 3 returned in favor, 0 returned in opposition, 1 in favor outside 200'. No registered Neighborhood Association.

Elizabeth Russell, representing applicant, spoke of request for 3 variances to develop on property.

No Public Comment

A motion was made by Chair Oroian. Regarding Case No. BOA-24-10300062, I move that the Board of Adjustment grant a request for 1) a 15' variance from the minimum 30' setback to allow a structure with a 15' rear setback, and 2) a 5' variance from the minimum 20' setback to allow a 15' side setback, situated at 12102 Huebner Road, applicant being Law Office of EAR 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.

The request is not contrary to the public interest, as the variances will still leave sufficient space from residential properties and the buffer elimination will not cause public harm.

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 unnecessary hardship as the property does not contain sufficient space for the proposed development.

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

The variances would observe the spirit of the ordinance as adequate space remains from the residential lots and the landscape elimination will allow proper parking area for the development.

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 would not alter the essential character of the district as sufficient distance remains in the rear and side, and sufficient landscape exists in the 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.

The variances are sought due to unique circumstances existing on the property such as the size of the lot, the surrounding residential lots, and the street classification that prevent adequate development of office use.

The motion was seconded by Commissioner Manna.

Favor: Brereton, Stevens, Ybanez, Dean, Cruz, Benavides, Bragman, Manna, Vasquez, Ozuna, Oroian

Opposed: None

MOTION PASSED

Item #3

(Continued from 6/3/2024) BOA-24-10300075: A request by Master Property Partners, LTD for appealing the City's Historic Preservation Officer's denial of a Certificate of Appropriateness, located at 900 West Houston Street and 118 North Medina Street. Staff recommends Denial. (Council District 5) (Colton Unden, Planner, (210) 207-0120, Colton.Unden2@sanantonio.gov, Development Services Department)

David Adelman, applicant, presented item and was available for questions. James McKnight, representing the applicant, presented appeal process and was available for questions.

Public Comment

Voicemails

- Mary – Spoke in opposition.
- Bernard Sanchez – Spoke in opposition.
- Carmela Platt – Spoke in opposition.
- Crystal Puento – Spoke in opposition.
- F. Kushner – Spoke in opposition.
- Fernando Centeno – Spoke in opposition.
- Grace Gonzalez – Spoke in opposition.
- JaDeet Vega – Spoke in opposition.
- Janice Olsen – Spoke in opposition.
- Javier Sanchez – Spoke in opposition.
- J.R – Spoke in favor.
- Kayla Miranda – Spoke in opposition.
- Maricela Garza, President of Gardendale Neighborhood Association – Spoke in favor.
- Mary Cabral – Spoke in opposition.
- Miranda Larson – Spoke in opposition.
- Naomi Ney – Spoke in opposition.
- Rachel Delgado – Spoke in opposition.
- Rene Gonzales – Spoke in opposition.
- Stella Bustos – Spoke in opposition.
- Tony Garcia – Spoke in opposition.

In Person

- Leticia Vela – Spoke in opposition.
- Leticia Sanchez – Spoke in opposition.
- Sherry Campos spoke in opposition.
- Graciela Sanchez – Spoke in opposition.
- Amy Kustely – Spoke in opposition.
- Susana Sugura – Spoke in opposition.
- Antonia Castaneda – Spoke in opposition.
- Luissana Santibanez – Spoke in opposition.
- Araczi Herrera – Spoke in opposition.
- Ray Morales – Spoke in opposition.
- Rachel Jennings – Spoke in opposition.

A motion was made by Commissioner Cruz. Regarding Case No. BOA-24-10300075, I move that the Board of Adjustment grant the appeal for the property, situated on 900 West Houston Street and 118 North Medina Street, applicant being Master Property Partners, LTD, because the information provided by the applicant shows the City staff made an error in the Historic Preservation Officer's decision to deny a Certificate of Appropriateness.

The motion was seconded by Commissioner Ozuna.

Favor: Ozuna, Brereton, Stevens, Benavides, Bragman, Oroian

Opposed: Ybanez, Cruz, Dean, Manna, Vasquez

MOTION FAILED

Commission went into recess at 4:28 PM and reconvened at 4:38 PM

Item #4

(Continued from 6/3/2024) BOA-24-10300082: A request by Lorraine Negrete 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 15' variance from the minimum 25' corner clear vision requirement to allow a 10' corner clear vision, located at 859 Canton Street. Staff recommends Denial. (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, 0 returned in favor, 0 returned in opposition. The Jefferson Heights and Harvard Place Eastlawn Neighborhood Associations did not respond.

Lorraine Negrete, homeowner, spoke of request for fence to keep her grandchildren safe. Applicant was available for questions.

No Public Comment

A motion was made by Commissioner Stevens. Regarding Case No. BOA-24-10300082, 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' privacy fence in the front yard, situated at 859 Canton Street, applicant being Lorraine Negrete, 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 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.

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

The proposed privacy fence appears to serve the public welfare and convenience, as the fence provides an element of security to the property owner.

3. 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.

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 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.

5. 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 Manna.

Commissioner Manna made a friendly amendment to just include the fence to eastside of property. Commissioner Stevens accepted the friendly amendment.

Favor: Brereton, Stevens, Ybanez, Dean, Cruz, Benavides, Bragman, Manna, Vasquez, Ozuna, Oroian

Opposed: None

MOTION PASSED

No motion was made for the 15' corner clear vision variance.

Item #5

BOA-24-10300083: A request by Elbert A Fuqua for 1) a half story variance from the maximum 2.5 stories to allow two detached structures to be 3 stories, 2) a 15% variance from the "AE-2" 25% to allow first-floor non-reflective glass windows at 10% total area, 3) a 2' variance from the minimum 5' side setback to allow a 3' side setback western property line, 4) a 19' variance from the minimum 25' corner clear vision to allow a 6' corner clear vision, 5) a 6' variance from the minimum 15' driveway clear vision to allow driveways with a 9' clear vision, 6) a 15' and 13' variance from the minimum 20' garage setback to allow a 5' and 7' setback for garage entrance, 7) a variance to allow a Principal Entrance not on a street frontage, and 8) a 3' fence height special exception from the maximum 3' fence height to allow a 6' privacy fence in the front yard, located at 203 Toledo Street. Staff recommends Approval for Side Setback and Clear Vision Variances. Staff recommends Denial for Half Story, Non-Reflective Glass, Principal Entrance, and Garage

Setback Variances and Fence Height Special Exception. (Council District 2) (Melanie Clark, Planner, (210) 207-5550, melanie.clark@sanantonio.gov, Development Services Department)

Staff stated 24 Notices were mailed to property owners, 0 returned in favor, 0 returned Opposed. No response from Denver Heights Neighborhood Association.

Applicant was not present.

No Public Comment

A motion was made by Commissioner Ozuna to continue the case until the July 1, 2024, Board of Adjustment meeting.

The motion was seconded by Commissioner Cruz.

MOTION PASSED IN THE AFFIRMATIVE

Item #6

BOA-24-10300098: A request by Clover Bldg LLC for 1) a variance from the fence materials to allow for a corrugated metal fence, 2) a 5' variance from the minimum 15' clear vision to allow a 10' driveway clear vision, and 3) a 3' special exception from the maximum 3' fence height to allow a 6' privacy fence in the front yard, located at 1330 West Mulberry Avenue. Staff recommends Denial. (Council District 1) (Colton Uden, Planner, (210) 207-0120, Colton.Uden2@sanantonio.gov, Development Services Department)

Staff stated 14 Notices were mailed to property owners, 0 returned in favor, 0 returned Opposed. The Keystone Neighborhood Association did not respond.

Cy Garza, property owner, requested fence for security of property. Applicant was available for questions.

No Public Comment

A motion was made by Commissioner Ybanez. Regarding Case No. BOA-24-10300098, I move that the Board of Adjustment grant a request 1) a variance from the fence materials to allow for a corrugated metal fence, and 2) a 5' variance from the minimum 15' clear vision to allow a 10' driveway clear vision, situated at 1330 West Mulberry Avenue, applicant being Clover Bldg 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 this request is not contrary to public interest, as the applicant has stated the fence material is necessary to develop the lot and clean against frequent graffiti tags against the property.

Furthermore, staff finds that adequate clear vision will remain against the abutting residential driveway for traversing on and off the local road.

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

In this case, the special condition found on the subject property is the security needs. Without this variance, an unnecessary hardship will prevent the applicant from developing this lot.

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

The spirit of the ordinance will be observed with the approval of the corrugated metal privacy fence on the side and rear of the property will provide the durability, security, and safety.

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 the granting of the variances 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 as the use of corrugated metal fencing provides privacy and separation between the subject property and the adjacent lot.

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 proximity to a high traffic expressway and need to provide the necessary safety and privacy screening.

The motion was seconded by Commissioner Manna, with a friendly amendment to remove item #2 and add “only on the western and southern side of the property” to item #1.

Commissioner Ybanez accepted the amendment.

Favor: Brereton, Stevens, Ybanez, Dean, Cruz, Benavides, Bragman, Manna, Vasquez, Ozuna, Oroian

Opposed: None

MOTION PASSED

Commissioner Ybanez made a motion to approve item #2.

Chair Oroian requested a friendly amendment for a “3’ variance for a 12’ driveway clear vision”.

Commissioner Ybanez accepted the amendment.

Favor: Brereton, Stevens, Ybanez, Dean, Cruz, Benavides, Bragman, Manna, Vasquez, Ozuna, Oroian

Opposed: None

MOTION PASSED

A motion was made by Commissioner Benavides. Regarding Case No. BOA-24-10300098, 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’ privacy fence in the front yard, situated at 1330 West Mulberry, applicant being Clover Bldg 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 special exception will be in harmony with the spirit and purpose of the chapter.

If granted, staff finds the request would be in harmony with the spirit and purpose of the ordinance.

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

Due to the property’s proximity to an expressway and continuous graffiti activity occurring on the property, an increased fence height will serve the public welfare by providing the needed security and substantial justice will be served.

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

The special exception will not injure the neighboring properties as the fence height will not impede traffic or clear vision requirements as it is located a safe distance from the front setback and creates enhanced security and privacy.

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 in the front yard will not alter the location for which the special exception is sought, as the fence height would provide the necessary privacy from public view and access.

5. 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 as the placement of the fence is adequately back from the front setback and clear vision area.

The motion was seconded by Commissioner Manna.

Favor: Brereton, Stevens, Ybanez, Dean, Cruz, Benavides, Bragman, Manna, Vasquez, Ozuna, Oroian

Opposed: None

MOTION PASSES

Item #7

BOA-24-10300099: A request by Iliana Cortez for 1) a 4' variance from the minimum 5' side setback to allow a 1' attached carport setback, 2) a 9' variance from the minimum 10' front setback to allow an attached carport to be 1' from the front setback, 3) a 5' variance from the minimum 15' clear vision to allow a 10' driveway clear vision, 4) a 1' special exception from the maximum 5' height to allow a 6' predominately open front yard fence, and 5) a 3' special exception from the maximum 3' height to allow a 6' privacy front yard fence, located at 12606 Middle Lane. Staff recommends Approval for Clear Vision Variance. Staff recommends Denial for Front and Side Setback Variances and Fence Height Special Exception. (Council District 10) (Melanie Clark, Planner, (210) 207-5550, melanie.clark@sanantonio.gov, Development Services Department)

Staff stated 24 Notices were mailed to property owners, 2 returned in favor, 0 returned Opposed. The Northeast Neighborhood Alliance is in favor.

Iliana Cortez, property owner, spoke about request for carport and was available for questions.

No Public Comment

A motion was made by Chair Oroian. Regarding Case No. BOA-24-10300099, I move that the Board of Adjustment grant a request for a 1' special exception from the maximum 5' height to allow a 6' predominately open front yard fence located and limited to the west of the existing driveway, situated at 12606 Middle lane, applicant being Iliana Cortez, 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 6' front yard fence being prodamently open located west of the driveway height provides privacy and security from neighboring properties.

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

The proposed fence appears to serve the public welfare and convenience, as the fence provides additional privacy and security to the property owner from the adjacent properties.

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

The special exception will not injure the neighboring properties as the fence variance will provide enhanced security and privacy for the subject and adjacent properties.

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 will not alter the location for which the special exception is sought, as the fence height provides privacy and security from neighboring properties.

5. 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 as the placement of the fence will not create any clear vision issues on the lot and will not injure the neighboring properties in the surrounding area.

Chair Oroian made a amendment to the fence height special exception to read a 1' special exception from the maximum 5' height to allow a 6' predominately fence in the front yard, and 2) a 3' special exception to allow a 6' predominately open fence in the front yard.

The motion was seconded by Commissioner Manna.

Favor: Brereton, Stevens, Ybanez, Dean, Cruz, Benavides, Bragman, Manna, Vasquez, Ozuna, Oroian

Opposed: None

MOTION PASSED

A motion was made by Chair Oroian. Regarding Case No. BOA-24-10300099, I move that the Board of Adjustment grant a request for 1) a 2' variance from the minimum 5' side setback to allow a 3' attached carport setback, and 3) a 5' variance from the minimum 15' clear vision to allow a 10' driveway clear vision, situated at 12606 Middle lane, applicant being Iliana Cortez, 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 public interest is defined as the general health, safety, and welfare of the public. Staff finds that an attached carport being as close as 3' to the side is enough space between the abutting 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 unnecessary hardship, as the attached carport located as close as 3' to the side property line will need to be constructed within the UDC driveway clear vision regulations.

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 reduced side setback and driveway clear vision observes the spirit of the ordinance as the variances provide an adequate distance from the city right of way and the surrounding 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, staff finds the reduced front, side setbacks and driveway clear vision are not likely to alter the essential character of the district as the property resides along a dead-end street with no through traffic.

Chair Oroian amended motion to include “a 5’ variance from the minimum 10’ setback to allow a carport to be 5’ from the front.”

The motion was seconded by Commissioner Manna.

Favor: Brereton, Stevens, Ybanez, Dean, Cruz, Benavides, Bragman, Manna, Vasquez, Ozuna, Oroian

Opposed: None

MOTION PASSED

Item #8

BOA-24-10300100: A request by Priscilla Hernandez for 1) an 9'-11" variance from the minimum 10' setback to allow a 1" carport setback, 2) a 3' special exception from the maximum 3' fence height to allow a 6' privacy front yard fence, 3) a variance from the maximum 50% impervious cover in the front yard, 4) a 5' variance from them minimum 15' clear vision to allow a 10' driveway clear vision, located at 126 Utah Street. Staff recommends Approval for Clear Vision Variance. Staff recommends Denial for Carport Setback and Impervious Cover Variances and Fence Height Special Exception. (Council District 2) (Colton Uden, Planner, 210-207-0120, Colton.Uden2@sanantonio.gov, Development Services Department)

Staff stated 15 Notices were mailed to property owners, 3 in favor, 1 in opposition. No registered Neighborhood Association within 200 feet.

Priscilla Hernandez, applicant, presented request for carport setback and was available for questions.

No Public Comment

A motion was made by Commissioner Manna. Regarding Case No. BOA-24-10300100, I move that the Board of Adjustment grant a request for 1) an 9'-11" variance from the minimum 10' setback to allow a 1" carport setback, 2) a variance from the maximum 50% impervious cover in the front yard as submitted on the application, and 3) a 5' variance from them minimum 15' clear vision to allow a 10' driveway clear vision, situated at 126 Utah Street, applicant being Priscilla Hernandez, 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.

In this case, the public interest is represented by impervious cover regulations and setback requirements to prevent storm water runoff and routine maintenance without trespass. The requested distance provides adequate spacing, and water runoff will not impose on the adjacent 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 granting of this variance will not allow for the applicant to construct sizeable carport.

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 granting of this variance will observe the spirit of the ordinance, as the carport is an allowable distance from the front property line and the impervious cover present on the property does not pose a risk to water runoff.

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.

This request will not injure the appropriate use of adjacent conforming properties, as other carports imposing into the setback were found in the immediate vicinity. The request does not seem to be out of character with the district and is harmonious with the neighborhood.

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 spacing in the front yard to abide by the carport setback and impervious cover regulations. The circumstances do not appear to be merely financial.

The motion was seconded by Commissioner Cruz.

Favor: Brereton, Stevens, Ybanez, Dean, Cruz, Benavides, Bragman, Manna, Vasquez, Ozuna, Oroian

Opposed: None

MOTION PASSED

A motion was made by Commissioner Manna. Regarding Case No. BOA-24-10300100, 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' privacy front yard fence not to extend forward of the neighboring house, situated at 126 Utah Street, applicant being Priscilla Hernandez, 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 fence height does not exceed 6' in height, provides security for neighboring properties and is limited to the front yard. If granted, staff finds the request would be in harmony with the spirit and purpose of the ordinance.

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

An increased fence height will serve the public welfare by providing for additional security and screening and substantial justice will be served.

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

The special exception will not injure the neighboring properties as the fence height will not impede traffic or clear vision requirements as it is located a safe distance from the front setback and creates enhanced security and privacy.

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 in the front yard will not alter the location for which the special exception is sought, as the fence height would provide the necessary privacy from public view and access.

5. 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 as the placement of the fence is adequately back from the front setback and clear vision area.

The motion was seconded by Chair Oroian, with a friendly amendment to add “neighboring house on 124 Utah Street”.

Commissioner Manna accepted the amendment.

Favor: Brereton, Stevens, Ybanez, Dean, Cruz, Benavides, Bragman, Manna, Vasquez, Ozuna, Oroian

Opposed: None

MOTION PASSED

Item #9

BOA-24-10300102: A request by Brown & McDonald PLLC for a 3'-6" special exception from the maximum 3' height to allow a 6'-6" front yard privacy fence, located at 2914 Eisenhower Road. Staff recommends Denial. (Council District 10) (Colton Uden, Planner, (210) 207-0120, Colton.Uden2@sanantonio.gov, Development Services Department)

Staff stated 41 Notices were mailed to property owners, 2 returned In-Favor, 0 returned Opposed. Oak Park Northwood Neighborhood Association is in favor.

Caroline McDonald, representing applicant, presented item and was available for questions. Kenny Hartman, property owner, spoke of request for special exception and was available for questions.

No Public Comment

A motion was made by Commissioner Ozuna. Regarding Case No. BOA-24-10300102, I move that the Board of Adjustment grant a request for a 3'-6" special exception from the maximum 3' height to allow a 6' front yard privacy fence with 6'-6" pillars, situated at 2914 Eisenhower, applicant being Brown & McDonald 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 special exception will be in harmony with the spirit and purpose of the chapter.

The fence height does not exceed 6'-6" in height and provides security for neighboring properties, the request would be in harmony with the spirit and purpose of the ordinance.

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

In this case, an increased fence height will serve the public welfare by providing the needed security and safety for the property and substantial justice will be served.

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

The special exception will not injure the neighboring properties as the fence height will not impede traffic or clear vision requirements as it is located a safe distance from the front setback and creates enhanced security and privacy.

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 in the front yard will not alter the location for which the special exception is sought, as the fence height would provide the necessary privacy from public view and access.

5. 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 as the placement of the fence is adequately back from the front setback and clear vision area.

The motion was seconded by Commissioner Manna.

Favor: Brereton, Stevens, Ybanez, Dean, Benavides, Bragman, Manna, Vasquez, Ozuna, Oroian
Opposed: Cruz

MOTION PASSED

Item #10

Consideration of a request by Krausz Sholomo to waive the 12-month time limitation under UDC Sec. 35-480(f) for a subsequent Board of Adjustment application located at 115 Milton Street.

Rachel Parrish, Development Services Engineer, presented item and was available for questions.

Public Comment

In Person

George Grimes – Spoke in opposition.

Scott Day – Spoke in opposition.

A motion was made by Chair Oroian to waive the 12-month time limitation under UDC Sec. 35-480(f) for a subsequent Board of Adjustment application located at 115 Milton Street.

The motion was seconded by Commissioner Manna

Favor: Oroian, Manna, Brereton, Cruz, Bragman, Ozuna

Opposed: Stevens, Ybanez, Dean, Benavides, Vasquez

MOTION FAILED

Item #11

Approval of the minutes from the Board of Adjustment meetings on June 3, 2024.

A motion was made by Commissioner Brereton and seconded by Commissioner Bennavides for approval of the June 3, 2024 minutes.

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 6:48 PM.

APPROVED BY: _____ or _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary