

City of San Antonio



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

Monday, September 23, 2024

1:00 PM

1901 S. Alamo

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

Roll Call – Present: Brereton, Dean, Manna, Bragman, Benavides, Ozuna, Vasquez, Cruz, Oroian, Stevens, Gomez

Absent: Ybanez

Worldwide Interpreters present.

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

Item #1

BOA-24-10300146 was postponed. The applicant was not present.

Item #2

BOA-24-1030158 was postponed. The applicant updated development plans which requires republication.

ITEMS #3, 5, AND 6 PRESENTED BY STAFF WITH ONE MOTION FOR A CONTINUANCE AS APPLICANTS WERE REQUESTING A CONTINUANCE TO THE OCTOBER 7TH BOARD OF AJUSTMENT MEETING:

Item #3: BOA-24-10300149: A request by Apex Sign Group for 1) a 10' variance from the maximum 50' height (to include 10' additional grade) to allow a 60' height multiple tenant sign, and 2) a 350 square feet variance from the maximum 300 square feet to allow a 650 square feet sign, located at 15000 IH-10. Staff recommends Denial. (Council District 8) (Colton Uden, Planner, 210-207-0120, Colton.Uden2@sanantonio.gov, Development Services Department)

Staff stated 7 Notices were mailed to property owners, 0 in favor, 0 in opposition. No registered Neighborhood Association within 200'.

Item #5: BOA-24-10300167: A request by Clearfield Construction LLC for 1) a 19' variance from the minimum 25' front setback to allow a 6' front setback, and 2) a 9' and 4'-6" variance from the minimum 15' buffer to allow a 6' buffer in the front and a 10'-6" buffer in the rear, located at 4950 San Pedro Avenue. Staff recommends Approval. (Council District 1) (Melanie Clark, Planner, 210-207-5550, melanie.clark@sanantonio.gov, Development Services Department)

Staff stated 25 Notices were mailed to property owners, 1 in favor, 0 in opposition. Olmos Park Terrace is currently opposed but requested more time to discuss with the applicant, no response from Kenwood NA.

Mariano Molina, representing Clearfield Construction, spoke of the request for continuance in order to meet with Olmos Terrace Park Neighborhood Association before presenting item to the Board.

Item #6: BOA-24-10300168: A request by Johnny Canavan Homes LLC for 1) a 10' variance from the minimum 20' rear setback to allow a 10' rear setback on 7 lots, and 2) a 10' variance from the minimum 20' garage front setback to allow a 10' garage front 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, 1 in favor, 16 in opposition. Oak Park Northwood Neighborhood Association is in opposition.

A motion was made by Commissioner Ozuna to continue BOA-24-10300149, BOA-24-10300168, and BOA-24-10300168 to the October 7th Board of Adjustment meeting.

The motion was seconded by Commissioner Brereton.

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

MOTION PASSED

Item #4

BOA-24-10300166: A request by Frank & Mary Mungia for a 2' variance from the minimum 5' side setback to allow a 3' side setback, located at 222 Banbridge Avenue. Staff recommends Approval. (Council District 3) (Colton Uden, Planner, 210-207-0120, Colton.Uden2@sanantonio.gov, Development Services Department)

Staff stated 34 Notices were mailed to property owners, 0 in favor, 0 in opposition. No response from the Highland Hills Neighborhood Association.

Frank and Mary Mungia, applicants, presented the item and were available for questions.

NO PUBLIC COMMENT

A motion was made by Commissioner Manna. Case No. BOA-24-10300166, I move that the Board of Adjustment grant a request for a 2' variance from the minimum 5' side setback to allow a 3' side setback limited to 40-feet, situated at 222 Banbridge Avenue, applicant being Frank & Mary Mungia, 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 side setback variance is not contrary to the public interest as other structures were seen to be within setbacks in the immediate area of which the property is located, and furthermore the required garage front setback for the new addition to the home will be fulfilled.

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

A literal enforcement of the side setback ordinances would result in unnecessary hardship as the applicant on the lot would be unable to have an attached garage for the purpose of protecting their vehicles.

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

The requested side setback variance appears to be in the spirit of the ordinance as the lot can maintain a single-family dwelling with an attached garage and no aggravating factors exist that prevent accommodations for a reduced side 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 side setback variance would not substantially injure the appropriate use of adjacent properties as the adjacent structure appears to have an adequate side setback and the new construction will need to abide with all fire mitigating standards.

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 an attached garage cannot be built on the property without a side setback variance, preventing protection of vehicles in a way that is congruent with the neighborhood.

The motion was seconded by Commissioner Benavides.

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

Opposed: None

MOTION PASSED

Item #7

BOA-24-10300169: A request by Christopher Rocha for a 200 square-foot variance from the minimum 4,000 square-foot minimum lot size to allow residential development on two 3,800 square-foot lots, located at 237 and 239 Carle Avenue. Staff recommends Approval. (Council District 5) (Melanie Clark, Planner, 210-207-5550, melanie.clark@sanantonio.gov, Development Services Department)

Staff stated 44 Notices were mailed to property owners, 1 in favor, 2 in opposition. No response from the Lone Star Neighborhood Association.

Chris Rocha, applicant, presented the item and was available for questions.

NO PUBLIC COMMENT

A motion was made by Commissioner Bragman. Regarding Case No. BOA-24-10300169, I move that the Board of Adjustment grant a request for a 200 square-foot variance from the minimum 4,000 square-foot minimum lot size to allow residential development on two 3,800 square-foot lots, situated at 237 and 239 Carle Avenue, applicant being, Christopher Rocha, 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 is abiding by the setback requirements, which will not infringe onto the neighboring properties.

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

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.

All other building requirements, such as setback minimums, building height, and density, are all being abided by. The spirit of the ordinance will be observed by granting this variance.

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 has found that the 200 square foot variances for the abutting lots will not alter the essential character of the district and setback regulations will insure adjacent properties remain uninjured.

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 lot size and do not appear to be merely financial.

The motion was seconded by Commissioner Benavides.

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

Opposed: None

MOTION PASSED

Item #8

BOA-24-10300170: A request by Rolando Martinez for a 16' variance from the maximum 24' height to allow a 40' sign height, located at 811 San Pedro Avenue. Staff recommends Denial. (Council District 1) (Colton Uden, Planner, 210-207-0120, Colton.Uden2@sanantonio.gov, Development Services Department)

Staff stated 16 Notices were mailed to property owners, 0 in favor, 0 in opposition. No response from the Gardendale and Tobin Hill Community Neighborhood Associations.

Rolando Martinez, representative for property owner, presented the item and was available for questions.

PUBLIC COMMENT

Cosima Colvin – in opposition

In Person

Daniel Leal, from VIA, spoke to give information on VIA project Green Line and asked for a continuance.

A motion was made by Commissioner Ozuna. Regarding Case No. BOA-24-10300170, I move that the Board of Adjustment grant a request for a 11' variance from the maximum 24' height to allow a 35' sign height, situated at 811 San Pedro Avenue, applicant being Rolando Martinez, 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 24-foot sign height, with 150-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 the 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 numerous signs in the immediate area are taller the currently permitted sign dimensions.

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

The proposed variance does not appear to have an adverse impact on neighboring properties as the sign height will not be out of norm for the district and immediate area in which the sign 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. A sign exceeding the 24' in height will allow adequate visibility along San Pedro Avenue and does not appear to be out of character or substantially conflict with the immediate area in which the sign will be located.

The motion was seconded by Commissioner Manna.

Favor: Dean, Gomez, Benavides, Ozuna

Opposed: Manna, Brereton, Stevens, Cruz, Bragman, Vasquez, Oroian

MOTION FAILED

A motion to reconsider was made by Commissioner Ozuna and seconded by Commissioner Dean.

Favor: Ozuna, Dean, Brereton, Gomez, Benavides, Vasquez, Oroian

Opposed: Stevens, Cruz, Manna, Bragman

MOTION PASSED

A motion was made by Commissioner Ozuna for a 6' variance from the maximum 24' sign to allow a 30' sign.

The motion was seconded by Commissioner Cruz.

Favor: Dean, Cruz, Gomez, Benavides, Ozuna, Vasquez, Oroian

Opposed: Brereton, Stevens, Manna, Bragman

MOTION FAILED

A motion to reconsider was made by Commissioner Dean and seconded by Commissioner Ozuna.

Favor: Dean, Ozuna, Cruz, Gomez, Bragman, Benavides, Vasquez, Oroian

Opposed: Brereton, Stevens, Manna

MOTION PASSED

A motion was made by Commissioner Dean for a 4' variance from the maximum 24' sign to allow a 28' sign.

The motion was seconded by Chair Oroian.

Favor: Dean, Cruz, Gomez, Benavides, Ozuna, Vasquez

Opposed: Oroian, Brereton, Stevens, Manna, Bragman

MOTION FAILED**Item #9**

BOA-24-10300171: A request by American GI Forum-National Veterans Outreach Program for 1) a 2' special exemption from the maximum 5' front fence height to allow a 7' predominately open front yard fence, and 2) a 7' clear vision variance from the minimum 15' clear vision to allow an 8' driveway clear vision, located at 801 North Main Avenue. Staff recommends Approval. (Council District 1) (Melanie Clark, Planner, 210-207-5550, melanie.clark@sanantonio.gov, Development Services Department)

Staff stated 13 Notices were mailed to property owners, 0 in favor, 0 in opposition. No response from the Downtown Neighborhood Association or Tobin Hill Neighborhood Association.

Robert Flores, applicant, presented the item and was available for questions.

NO PUBLIC COMMENT

A motion was made by Commissioner Manna. Regarding Case No. BOA-24-10300171, I move that the Board of Adjustment grant a request for a 2' special exemption from the maximum 5' front fence height to allow a 7' predominately open front yard fence, situated at 801 North Main Avenue, applicant being American GI Forum-National Veterans Outreach Program, 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.

Staff finds the request would be in harmony with the spirit and purpose of the ordinance, as the request is limited to the front yard and exceeds the maximum height requirements for a predominately open fence by 2-feet.

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

The proposed fence appears to serve the public welfare and convenience, as the additional fence height will add additional security to the subject property and will match the aesthetic and height of the fence along the abutting lot.

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

The fence special exception appears to create enhanced security and privacy for the subject and adjacent properties being within 2-feet of the Unified Development Code fence guidelines.

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 does not appear to alter the essential character of the district and location for which the special exception is sought, as the downtown area offers a wide variety of uses.

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 as it is within 2-feet of the permitted height and will increase security of the subject property.

The motion was seconded by Commissioner Cruz.

Commissioner Dean made a motion to amend to a 1' special exception from the maximum 5' fence height for a 6-foot fence height. Motion dies due to lack of second.

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

MOTION PASSED

A motion was made by Commissioner Manna. Regarding Case No. BOA-24-10300171, I move that the Board of Adjustment grant a request for a 7' clear vision variance from the minimum 15' clear vision to allow an 8' driveway clear vision, situated at, 801 North Main Avenue, applicant being American GI Forum-National Veterans Outreach Program, 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. The applicant is requesting a clear vision variance to allow a fence to be 8' from the front setback. Staff finds that this request will not be contrary to the public interest as leaves adequate clear vision space for street access.

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 entire fence would need be reconfigured to abide by the driveway clear vision.

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 applicant is requesting this variance prior to construction and the clear vision of 8' leaves sufficient room onto street access and 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 clear vision variance distance will be 8' from the curb. This distance of the fence is not likely to alter the essential character of the district as the fence design will match the fence along the abutting property and will not hinder flow of traffic.

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 driveway clear vision variance is due to unique circumstances that were not created by the property owner such as the location of the property and surrounding area.

The motion was seconded by Commissioner Bragman.

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

Opposed: Dean

MOTION PASSED

Item #10

BOA-24-10300172: A request by Red & Black Engineering Group, LLC for a 10' variance from the minimum 10' buffer to allow an elimination of the buffer requirements along a secondary arterial road, located at 707 Vance Jackson Road. Staff recommends Approval. (Council District 1) (Colton Unden, Planner, 210-207-0120, Colton.Unden2@sanantonio.gov, Development Services Department)

Staff stated 15 Notices were mailed to property owners, 0 returned in favor, 0 returned in opposition. No response from the Los Angeles Neighborhood Association. No response from the San Antonio Texas District One Resident Association.

Jose Cantu, representing the applicant, presented the item and was available for questions.

NO PUBLIC COMMENT

A motion was made by Commissioner Manna. Regarding Case No. BOA-24-10300172, I move that the Board of Adjustment grant a request for a 7' variance from the minimum 10' buffer to allow a 3' buffer with a 10' variance to allow for an elimination of the buffer only on the south 45' along a secondary arterial road, situated at 707 Vance Jackson Road, applicant being Red & Black Engineering Group, 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 landscape buffer yard variance is not contrary to the public interest as the preexisting space does not allow the buffer to be accommodated as it is fully comprised of concrete and will not be demolished.

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

A literal enforcement of the buffer ordinances would result in unnecessary hardship as the applicant would need to adjust plans to demolish the preexisting front yard to accommodate the buffer rules.

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

The requested buffer variance appears to be in the spirit of the ordinance as the lot has no other aggravating factors and will abide by all other building and lot setbacks.

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 buffer 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 frontage was fully paved from its initial development and so with minimal disruption will be able to accommodate the buffer.

The motion was seconded by Commissioner Bragman.

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

Opposed: None

MOTION PASSED

Item #11

Approval of the minutes from the Board of Adjustment meetings on September 9, 2024.

A motion was made by Commissioner Bragman for approval of the September 9, 2024, minutes with revisions.

The motion was seconded by Commissioner Cruz.

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 2:43 PM.

APPROVED BY: _____ or _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary