

City of San Antonio



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

Monday, September 9, 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, Ybanez, Dean, Manna, Bragman, Benavides, Ozuna, Vasquez, Cruz, Oroian, Bonillas (joined at 1:27 PM via WebEx)

Absent: Stevens, Gomez

Worldwide Interpreters present.

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

Item #1

BOA-24-10300148: A request by SAVOG6 Interests LLC for a Special Exception to allow one (1) additional Type 2 Short Term Rental permit on the block face, per UDC Section 35-374.01(c), located at 126 North Cherry Street. Staff recommends Denial. (Council District 2) (Juan Alvarez, Planner (210) 207-7232, Juan.Alvarez2@sanantonio.gov, Development Services Department)

Staff stated 37 Notices were mailed to property owners, 1 in favor, 0 in opposition. No response from the Dignowity Hills Neighborhood Association.

Arturo Valdez, applicant, presented the item and was available for questions.

NO PUBLIC COMMENT

A motion was made by Commissioner Benavides. Regarding Case No. BOA-24-10300148, I move that the Board of Adjustment grant a special exception to allow for (1) Type 2 short term rental unit, situated at 126 North Cherry Street applicant being SAVOG6 Interests 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:

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, vacant commercial, and storage units. This scenario does not cause reason to believe it will substantially injure neighboring property as a Type 2 Short Term Rental.

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

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

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

The applicant or owner does not have confirmed citations, or adjudicated offenses or convictions as he only received a notice of violation for operating without a permit and submitted an STR application shortly afterwards.

F. The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought.

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

The motion was seconded by Commissioner Bonillas.

Favor: Brereton, Bragman, Ozuna, Vasquez, Bonillas, Oroian

Opposed: Ybanez, Dean, Cruz, Manna, Benavides

MOTION FAILED

Item #2

(Continued from 8/5/2024) BOA-24-10300120: A request by Jaime Soza for 1) a 4'-11" variance from the minimum 5' side setback to allow a detached carport to be 1" from the east and west side property lines, 2) a 3' fence height special exemption from the maximum 3' fence height to allow a 6' privacy fence in the front yard, 3) a 5' variance from the minimum 15' clear vision requirement to allow a fence to be 10' from the curb, and 4) a variance from the maximum 50% impervious cover requirement to allow the front yard to exceed the maximum 50% impervious cover, located at 3550 West Woodlawn Avenue. Staff recommends Approval in the Clear Vision Variance. Staff recommends Denial in the Side Setback, Impervious Cover Variances and the Fence Height Special Exception. (Council District 7) (Melanie Clark, Planner, (210) 207-5550, melanie.clark@sanantonio.gov, Development Services Department)

Staff stated 31 Notices were mailed to property owners, 6 in favor, 0 in opposition. The University Park Neighborhood Association is in favor.

Jamie and Margaret Soza, applicants, spoke of the need for a carport to protect their vehicles. The applicants removed #2 from the request.

NO PUBLIC COMMENT

A motion was made by Commissioner Manna. Regarding Case No. BOA-24-10300120, I move that the Board of Adjustment grant a request for 1) a 3'-6" variance from the minimum 5' side setback to allow a detached carport to be 1'-6" from the east and west side property lines, 2) a 5' variance from the minimum 15' clear vision requirement to allow a fence to be 10' from the curb, and 3) a 30% variance from the maximum 50% impervious cover requirement to allow the front yard up to maximum 80% impervious cover, situated at 3550 West Woodlawn Ave, applicant being Jamie Soza, 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 requests are not contrary to the public interest as the clear vision and setback variances will not impede the right of way and will provide sufficient distance from neighboring properties. Additionally, the existing impervious coverage allows adequate water absorption that will not enhance water runoff and flooding conditions for adjacent properties.

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

A literal enforcement of the ordinance would result in unnecessary hardship as the proposed detached carport and sliding gate would have to be redesigned to abide by all requirements of a smaller lot. Additionally, the removal of existing impervious coverage would be required to increase the permeable surface area of the property.

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

The variances observe the spirit of the ordinance and will not injure the neighboring properties or residences in the surrounding area.

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 granting of the variances will not alter the essential character of the district and will not injure neighboring properties within the local area.

6. The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial and are not due to or the result of general conditions in the district in which the property is located.

Staff finds the plight of the owner of the property for which the variances are sought is due to unique circumstances existing on the property such as the location of the lot and distance from neighboring residences.

The motion was seconded by Commissioner Benavides.

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

Opposed: None

MOTION PASSED

Item #3

(Continued from 8/5/2024) BOA-24-10300132: A request by Mario Nichols for a 2'-6" variance from the minimum 5' side setback to allow 2'-6" side setbacks on the northern and southern property lines, located at 1317 Dahlgreen Avenue. Staff recommends Denial. (Council District 5) (Melanie Clark, Planner, (210) 207-5550, melanie.clark@sanantonio.gov, Development Services Department)

Staff stated the applicant requested for a continuance to the October 7th Board of Adjustment meeting.

NO PUBLIC COMMENT

A motion was made by Commissioner Brereton to continue BOA-24-10300132 to the October 7th Board of Adjustment meeting.

The motion was seconded by Commissioner Cruz.

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

Item #4

BOA-24-10300145: A request by Killen, Griffin & Farrimond, PLLC for a 9'-11" variance from the minimum 10' carport setback to allow a carport with a 1" setback located at 1702 Mountjoy Street. Staff recommends Approval. (Council District 9) (Melanie Clark, Planner, (210) 207-5550, melanie.clark@sanantonio.gov, Development Services Department)

Staff stated 14 Notices were mailed to property owners, 11 returned in favor, 9 returned in favor outside 200', 0 returned in opposition. No registered Neighborhood Association.

Rob Killen, Attorney for the property owners applicant, presented the item and was available for questions.

PUBLIC COMMENT

Voicemails

Ricardo Ramos – In favor

Louis Alexander – In favor

James Stallings – In favor

Kenneth Frazier – In favor

A motion was made by Commissioner Bragman. Regarding Case No. BOA-24-10300145, I move that the Board of Adjustment grant a request for a 9'-11" variance from the minimum 10' carport setback to allow a carport with a 1" setback, situated at 1702 Mountjoy Street, applicant being Killen, Griffin & Farrimond, 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 carport will not impede on the driveway clear vision requirements.

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

A literal enforcement of the ordinance would result in the applicant having to reconstruct the attached carport to be 10' from the setback, which would result in an unnecessary hardship as the carport would not provide the coverage needed for vehicles.

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

The structure would be 1" from the property line, which observes the spirit of the ordinance as the carport poses no hinderance to the driveway clear vision nor impedes neighboring properties.

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

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

5. Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.

If granted, the attached carport 1" from the setback would not alter the essential character of the district.

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 as the corner lot limits the location of a carport on the property.

The motion was seconded by Commissioner Benavides.

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

Opposed: None

MOTION PASSED

Item #5

BOA-24-10300151: A request by Ana Juarez for 1) a 9'-11" variance from the minimum 10' front setback to allow a residential structure to be 1" from the front setback, 2) a 17'-6" variance from

the minimum 20' rear setback to allow a 2'-6" rear setback, 3) a 307 square feet variance from the minimum lot size requirement of 4,000 square feet to allow a 3,693 square feet lot, 4) a 5' variance from the minimum 15' clear vision to allow a 10' driveway clear vision, 5) a variance from the fence materials to allow for a corrugated metal fence on the property, and 6) a 3' special exception from the maximum 3' fence height to allow a 6' privacy fence in the front yard, located at 215 South Elmendorf. Staff recommends Approval for Minimum Lot Size and Clear Vision Variances. Staff recommends Denial for Setback, Fence Material Variances and Fence Height Special Exception. (Council District 5) (Colton Unden, Planner, (210) 207-0120, Colton.Unden2@sanantonio.gov, Development Services Department)

Staff stated 23 Notices were mailed to property owners, 0 returned in favor, 0 returned in opposition. The Prospect Hill Neighborhood Association is in favor of request #3, lot size minimum and is in opposition on all other requests on this case.

Luis Faraklas, Engineer for the property owner, presented the item and was available for questions.

NO PUBLIC COMMENT

A motion was made by Commissioner Ozuna. Regarding Case No. BOA-24-10300151, I move that the Board of Adjustment grant a request for 1) a 4' and 9'-11" variance from the minimum 10' front setback to allow a residential structure to be 6' and 12' wide entry porch to be 1" from the front setback, 2) a 17'-6" variance from the minimum 20' rear setback to allow a 2'-6" rear setback, 3) a 307 square feet variance from the minimum lot size requirement of 4,000 square feet to allow a 3,693 square feet lot, and 4) a 5' variance from the minimum 15' clear vision to allow a 10' driveway clear vision, situated at 215 South Elmendorf, applicant being Ana Juarez, 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 front setback, rear setback, minimum lot size, and driveway clear vision. The variance request does not appear to be contrary to the public interest as granting the variance would be in line with other lot sizes in the area.

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 not being able to develop the lot which would result in an unnecessary hardship.

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 requests appear to be in the spirit of the ordinance as the requirement is there to protect the neighborhood, and the applicant is seeking to maintain a single-family home on a multi-family lot in a predominately single-family neighborhood. Furthermore, the applicant is maintaining a fence on an established fence line that leaves sufficient space for safely backing from and on to the local residential road.

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 variance requests would not substantially injure the appropriate use of adjacent properties as enough space will remain between neighboring structures for the purposes of fire safety and water runoff concerns. Additionally, sufficient clear vision will remain for the purposes of adequate safety in backing up and coming from the local residential road.

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 limited space and configuration of the lot and maintaining the established fence line with the clear vision request.

The motion was seconded by Commissioner Manna.

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

Opposed: None

MOTION PASSED

The Board went into recess at 2:56 PM and reconvened at 3:06 PM.

Item #6

BOA-24-10300152: A request by Jesse Avila for a 4'-11" variance from the minimum 5' side setback to allow a 1" carport side setback, located at 211 Fairview Avenue. Staff recommends Denial. (Council District 3) (Melanie Clark, Planner, (210) 207-5550, melanie.clark@sanantonio.gov, Development Services Department)

Staff stated 28 Notices were mailed to property owners, 6 returned in favor, 0 returned in opposition. No registered Neighborhood Association.

Jesse Avila, applicant, spoke of his request for the carport to protect vehicles and add shade to the house.

NO PUBLIC COMMENT

A motion was made by Commissioner Manna. Regarding Case No. BOA-24-10300152, I move that the Board of Adjustment grant a request for a 4'-6" variance from the minimum 5' side setback to allow a carport with a 6" setback, limited to a 60' carport, situated at 211 Fairview Avenue, applicant being Jesse Avila, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

The request is not contrary to the public interest as a 6" side setback will provide adequate distance between the carport and neighboring properties.

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

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

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

The structure would be 6" from the property line, which observes the spirit of the ordinance as the carport poses no hinderance to the neighboring properties.

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

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

5. Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.

If granted, the attached carport 6” from the setback would not 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 limited lot size and available space for a functional carport.

The motion was seconded by Commissioner Bragman.

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

Opposed: None

MOTION PASSED

Item #7

BOA-24-10300154: A request by Stephanie Kelly for an appeal of the Administrator’s decision for a Nonconforming Use Denial, located at 111 Dunaff Street. Staff recommends Denial. (Council District 2) (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, 0 returned in opposition. No response from the Eastwood Village Neighborhood Association.

Jeffrey Thomas, applicant, presented the item and was available for questions.

NO PUBLIC COMMENT

A motion was made by Commissioner Bragman. Regarding Case No. BOA-24-10300154, I move that the Board of Adjustment grant the appeal for the property, situated at 111 Dunaff Street, applicant being Stephanie Kelly, because the information provided by the applicant shows that City staff made an error in the Administrator’s decision for a Nonconforming Use Denial.

The motion was seconded by Commissioner Manna.

Favor: None

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

MOTION FAILED

Commission Dean stepped away from the Board of Adjustment meeting at 3:49 PM.

Item #8

BOA-24-10300156: A request by Moses Flores for a 4'-11" variance from the minimum 5' side setback to allow a 1" carport side setback, located at 226 Greer Street. Staff recommends Denial. (Council District 3) (Melanie Clark, Planner, 210-207-5550, melanie.clark@sanantonio.gov, Development Services Department)

Staff stated 32 Notices were mailed to property owners, 1 returned in favor, 0 returned in opposition. No response from Highland Park Neighborhood Association.

Moses Flores, applicant, requested the variance for a carport to protect vehicles from the weather. The applicant amended the application to include gutters.

NO PUBLIC COMMENT

A motion was made by Commissioner Ozuna. Regarding Case No. BOA-24-10300156, I move that the Board of Adjustment grant a request for a 4'-6" variance from the minimum 5' side setback to allow a carport with a 6" setback, limited to 20' carport with gutters, situated at 226 Greer Street, applicant being Moses Flores, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

The request is not contrary to the public interest as a 6" side setback will provide adequate distance between the carport and neighboring properties.

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

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

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

The structure would be 6" from the property line, which observes the spirit of the ordinance as the carport poses no hinderance to the neighboring properties. The applicant will be providing gutters.

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

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

5. Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.

If granted, the attached carport 6” from the setback would not 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 limited lot size and available space for a functional carport.

The motion was seconded by Commissioner Benavides.

Favor: Ozuna, Benavides, Brereton, Ybanez, Cruz, Manna, Bragman, Vasquez, Bonillas, Oroian
Opposed: None

Commissioner Dean was not present to vote.

Commissioner Dean returned to the Board of Adjustment meeting at 3:58 PM.

MOTION PASSED

Item #9

BOA-24-10300158: A request by Elbert A Fuqua for 1) a 2’ variance from the minimum 5’ side setback to allow residential development to be 3’ from the southern side setback, and 2) a 1’ variance from the minimum 5’ side setback to allow a 4’ side setback, located at 203 and 205 Toledo Street. Staff recommends Approval. (Council District 2) (Melanie Clark, Planner, (210) 207-5550, melanie.clark@sanantonio.gov, Development Services Department)

Staff stated 20 Notices were mailed to property owners, 0 in favor, 0 in opposition. Denver Heights Neighborhood Association is in Opposition.

Staff stated the applicant requested for a continuance to the October 7th Board of Adjustment meeting.

A motion was made by Commissioner Brereton to continue BOA-24-10300158 to the September 23rd Board of Adjustment meeting.

The motion was seconded by Commissioner Manna.

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

MOTION PASSED

Staff cites that applicant for Item #9 (BOA-24-10300158) desired a continuance to September 23.

Motion to Reconsider Item #9 (BOA-24-10300158) by Chair Oroian

The motion was seconded by Commissioner Manna

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

MOTION PASSED

A motion was made by Commissioner Ozuna to continue BOA-24-10300158 to the September 23rd Board of Adjustment meeting.

The motion was seconded by Commissioner Bragman.

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

MOTION PASSED

Item #10

BOA-24-10300160: A request by Juan Hernandez for 1) a variance to allow two separate structures on an "RM-4" that is less than one-third of an acre, and 2) a 15' variance from the minimum 20' requirement to allow a garage entry to be 5' from the front property line, located at 1127 S. Hackberry Street. Staff recommends Denial. (Council District 2) (Vincent Trevino, Senior Planner, (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 29 Notices were mailed to property owners, 0 returned in favor, 1 returned in opposition. The Denver Heights Neighborhood Association is in opposition.

Juan Hernandez, applicant, presented the item and was available for questions.

Chair Oroian asked to table item #10 at 4:09 PM, for the applicant to speak with staff for clarification of the request and guidance on how to proceed. Item #11 was heard at this time. Item #10 resumed at 4:24 PM.

PUBLIC COMMENT

In Person

JoAnn Saldana – In favor

A motion was made Commissioner Brereton to continue BOA-24-10300160 to the October 7th meeting.

The motion was seconded by Commissioner Cruz.

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

MOTION PASSED

Item #11

BOA-24-10300161: A request by Dye Enterprises for a 52' variance from the maximum lot width requirement of 150' to allow a 202' wide lot, located at 649 and 701 West Broadview Drive. Staff recommends Denial. (Council District 7) (Vincent Trevino, Senior Planner, (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 29 Notices were mailed to property owners, 0 returned in favor, 0 returned in opposition. The Culebra Park Neighborhood Association is in favor.

Scott Dye, applicant, representing the property owner, presented the item and was available for questions.

NO PUBLIC COMMENT

A motion was made by Commissioner Manna. Regarding Case No. BOA-24-10300161, I move that the Board of Adjustment grant a request for a 52' variance from the maximum lot width requirement of 150' to allow a 202' wide lot, situated at 649 and 701 West Broadview Drive, applicant being Dye Enterprises 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.

Due to the size of the property, a 150' variance to allow a lot of width of 202' will not affect the general health, safety, and welfare of the neighbor or surrounding properties.

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

A literal enforcement of the ordinance would prevent the applicant from constructing a pool and pool house on the property.

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 pool and pool house will be abiding all other setback requirements.

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 width variance will allow a pool and pool house to be constructed within the boundaries of a 202' lot. This will not injure the appropriate use of adjacent properties and will not alter the essential character of the district as similar lot widths can be seen throughout 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 the size and orientation of the lot. This circumstance does not appear to be merely financial.

The motion was seconded by Commissioner Bragman.

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

Opposed: None

MOTION PASSED

Item #12

BOA-24-10300162: A request by Laura Bustillos for a 4'-11" variance from the minimum 5' side setback requirement to allow a carport to be 1" from the side setback, located at 254 East Summit Avenue. Staff recommends Denial. (Council District 1) (Vincent Trevino, Senior Planner, (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 15 Notices were mailed to property owners, 0 returned in favor, 1 returned in opposition. No response from the Monte Vista Historical Neighborhood Association.

Don McDonald, Neighbor and Architect, presented the item and was available for questions.

NO PUBLIC COMMENT

A motion was made by Commissioner Manna. Regarding Case No. BOA-24-10300162, I move that the Board of Adjustment grant a request for a 4'-11" variance from the minimum 5' side setback

requirement to allow a carport to be 1" from the side setback, situated at 254 East Summit Avenue, applicant being Laura Bustillos, 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. In this case, the public interest is represented by minimum side setback requirements, as they ensure the carport is positioned a safe and suitable distance from property lines. Board finds a 1” side setback 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 as applied would require the applicant to abide by the 5’ side setback regulations, which would result in an unnecessary hardship as the carport width would only allow 1 vehicle with limited coverage.

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. Reducing the side setback requirement would not encroach neighboring properties, as the adjacent structure is built beyond the required 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.*

The side setback will not substantially injure the appropriate use of adjacent conforming 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 variance is sought is due to unique circumstances existing on the property as the side carport setback will allow space for multiple vehicles.

The motion was seconded by Commissioner Benavides.

Commissioner Dean made a motion to amend the variance to a 4' variance for a 1' side setback, seconded by Commissioner Cruz.

Favor: Dean, Cruz

Opposed: Brereton, Ybanez, Manna, Bragman, Benavides, Ozuna, Vasquez, Bonillas, Oroian

AMENDMENT TO THE MOTION FAILS

Favor: Manna, Brereton, Ybanez, Bragman, Benavides, Ozuna, Vasquez, Bonillas, Oroian

Opposed: Dean, Cruz

MOTION PASSED

Item #13

BOA-24-10300163: A request by Nuriddin Kalam for 1) a 3'-4" variance from the minimum 5' side setback requirement to allow a carport to be 1'-8" from the side property line, 2) an 8' variance from the minimum 10' front setback requirement to allow a detached carport to be 2' from the front property line, located at 323 Ridgehaven Place. Staff recommends Denial. (Council District 10) (Vincent Trevino, Senior Planner, (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 30 Notices were mailed to property owners, 22 returned in favor, 23 returned in favor outside 200', 1 returned in opposition. The Oak Park Northwood Neighborhood Association is in favor.

Ashley Farrimond, representing the applicant homeowners, presented the item and was available for questions.

PUBLIC COMMENT

In Person

Emily and Ellen Hasslocker – In opposition

A motion was made by Commissioner Ozuna. Regarding Case No. BOA-24-10300163, I move that the Board of Adjustment grant a request for 1) a 3'-4" variance from the minimum 5' side setback requirement to allow a carport to be 1'-8" from the side property line and, 2) a 8' variance from the minimum 10' front setback requirement to allow a detached carport to be 2' from the front property line, situated at 323 Ridgehaven, applicant being Nuriddin Kalam, 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 would not be contrary to the public interest as the location of the carport leaves sufficient room on the side and front of the property for any required maintenance and enough separation to between neighboring 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 structure would have to be moved the meet the required setbacks.

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 side and front setback variances will observe the spirit of the ordinance by providing a maintainable distance between property lines, neighboring properties, and right-of-way.

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 side and front setbacks will not injure the use of adjacent conforming properties nor 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 limited space to provide adequate covered parking.

The motion was seconded by Commissioner Bragman.

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

Opposed: None

MOTION PASSED

Commission went into recess at 5:34 PM and reconvened at 5:39 PM.

Item #14

BOA-24-10300165: A request by Ortiz and McKnight for a 4' variance from the maximum 12' driveway width to allow a 16' driveway width on 15 lots, located at 4015 - 4043 Imogene Ivy and 4006 - 4030 Artesian Belt. Staff recommends Approval. (Council District 4) (Mirko Maravi, Principal Planner, (210) 207-0107, Mirko.Maravi@sanantonio.gov, Development Services Department)

Staff stated 69 Notices were mailed to property owners, 0 returned in favor, 0 returned in opposition. No registered Neighborhood Association.

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

NO PUBLIC COMMENT

A motion was made by Commissioner Bragman. Regarding Case No. BOA-24-10300165, I move that the Board of Adjustment grant a request for a 4' variance from the maximum 12' driveway width to allow a 16' driveway width on 15 lots, situated at 4015 - 4043 Imogene Ivy and 4006 - 4030 Artesian Belt, applicant being Ortiz and McKnight, 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. In this case, the public interest is represented by the maximum driveway width in an “R-3” lot. The request is not contrary to the public interest as the lots are approximately 150 square feet from not having the maximum width.

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

Special conditions exist on the property as the lots have a 35-foot frontage, which provides sufficient space for the requested driveway width.

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 intent of the code is to limit the width of a driveway on an “R-3” lot. The requested variance will be in the spirit of the ordinance was the width of the lot are the “R-4” standards.

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

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

5. Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.

If granted, the variance request will not injure the appropriate use of adjacent conforming properties. The adjacent properties are zoned “R-4” and have a similar lot with.

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 approximately 150 square feet size to meet the “R-4” standard.

The motion was seconded by Commissioner Cruz.

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

Opposed: None

MOTION PASSED

Item #15

Approval of the minutes from the Board of Adjustment meetings on August 19, 2024.

A motion was made by Commissioner Manna for approval of the August 19, 2024, minutes with revisions.

The motion was seconded by Commissioner Bragman.

A verbal vote was taken, and all voted in affirmative with Commissioner Cruz abstained.

MOTION PASSED

Director's Report - None

Adjournment

There being no further business, the meeting was adjourned at 6:05 PM.

APPROVED BY: _____ or _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary