



DRAFT

Board of Adjustment Minutes

Development and Business Services

Center

1901 South Alamo

February 7, 2022

1:00PM

1901 S. Alamo

Board of Adjustment Members

A majority of appointive Members shall constitute a quorum.

Donald Oroian, District 8, Chair

Andrew Ozuna, Mayor, Vice Chair

Seth Teel, District 6, Pro-Tem

Vacant, District 1 | Scott Albert, District 2

Abel Menchaca, District 3 | George Britton, District 4 |

Maria Cruz, District 5 | Phillip Manna, District 7

Kimberly Bragman, District 9 | Jonathan Delmer, District 10

Alternate Members

Vacant | Elizabeth Ingalls | Jo-Anne Kaplan | Lisa Lynde

Lillian Miess | Jesse Vasquez | Jesse Zuniga

1:00 P.M. - Call to Order

- Roll Call

- Present: Albert, Menchaca, Cruz, Manna, Bragman, Lynde, Kaplan, Vasquez, Teel, Ozuna, Oroian

- Absent: Britton, Delmer

2 Translators from SeproTec were present to assist with translating.

**THE FOLLOWING ITEMS MAY BE CONSIDERED AT ANY TIME DURING THE
REGULAR BOARD OF ADJUSTMENT MEETING:**

*Public Hearing and Consideration of the following Variances, Special Exceptions, Appeals,
as identified below*

Item #1 **BOA-22-10300002** - Postponed

Item #2 **(Continued from 01/10/2022) BOA-21-10300157:** A request by Felise De Novo for a 2' special exception to allow an 8ft solid screened privacy fence along the side and rear property lines, located at 519 West King's Highway. Staff recommends Denial. (Council District 7) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Staff stated 30 notices were mailed to property owners within 200 feet, 0 returned in favor, 4 returned in opposition, and the Alta Vista Neighborhood Association is in opposition.

No Public Comment

Applicant requested a continuance until the March 21, 2022, Board of Adjustment meeting.

Chair Oroian asked for a motion for item BOA-21-10300157 as presented.

Teel made a **motion** for item BOA-21-10300157 to be continued to March 21, 2022.

Second: Cruz

In Favor: Albert, Menchaca, Cruz, Manna, Bragman, Lynde, Kaplan, Vasquez, Teel, Ozuna, Oroian

Opposed: None

Motion Granted for a continuance for BOA-21-10300157 to March 21, 2022.

Item #3 **(Continued from 12/20/2021) BOA-21-10300159:** A request by Rey Gutierrez for 1) a 4' 11" variance from the 5 foot minimum rear and side setback requirement to allow an accessory detached dwelling unit to be 1" from the side and rear property line and 2) a 2,164 square foot variance from the 4,000 square foot minimum requirement to allow a 1,836 square foot lot size, located at 1118 South Mesquite Street. Staff recommends Denial with an Alternate Recommendation. (Council District 2) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Staff stated 34 notices were mailed to property owners within 200 feet, 1 returned in favor, 0 returned in opposition, and no response from the Denver Heights Neighborhood Association.

Rey and Rosemary Gutierrez, applicants, stated the existing laundry room was decaying, needing repairs, and encroaching on the neighboring property. He is an active member of his neighborhood and the updated structure has not caused problems.

Public Comment:

Voicemails:

Juan Montelongo, 1114 S. Mesquite, favor

Ray Casillas, 1104 S. Mesquite, favor

Simon Rojas, 1109 S. Mesquite favor

Vanessa Reyes, 1110 S. Mesquite, favor

Chair Oroian asked for a motion for item BOA-21-10300159.

Ozuna made a **motion** for BOA-21-10300159 for Approval.

“Regarding Case No. BOA-21-10300159, I move that the Board of Adjustment grant a request for 1) a 4' 11" variance from the 5' side and rear setback requirement to allow an accessory detached dwelling unit to be 1" from the side and rear property lines and 2) a 2, 150 sq. ft. variance to a minimum lot size requirement of 4,000 sq. ft. to build a structure on a 1,850 sq. ft lot, situated at 1118 South Mesquite Street, applicant being Rey Gutierrez, 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 request is to allow an accessory detached dwelling unit to be 1” away from the side property line is not contrary to the public interest.

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

The Board finds that any special conditions that, if enforced, would result in an unnecessary hardship. By imposing a literal enforcement, the owner would have to move the accessory dwelling 5’ from side and rear property line or remove the structure all together.

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 setback is to prevent sufficient space between the structure and the neighboring property lines. The spirit of the ordinance is observed as there are similar structures in the immediate area.

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

The variance will not authorize the operation of a use other than those uses specifically authorized by the district.

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 request to have a side setback 1” away from the side and rear property lines does not pose a risk of substantially injuring the use of adjacent properties and does not seem likely to alter the essential character of the district. This property is located within an older established neighborhood and is consistent with the area in setbacks.

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 Board finds that the plight of the property owner is sought due to the unique circumstances existing on the property due to the older neighborhood has smaller lot sizes in general and there are other similar structures in the immediate area with the same similar setback from the side and rear property lines.

Second: Teel

In Favor: Albert, Manna, Bragman, Lynde, Teel, Ozuna, Oroian

Opposed: Kaplan, Menchaca, Vasquez, Cruz

Motion failed with a vote of 7-4.

Chair Oroian made a motion for Approval: “Regarding Case No. BOA-21-10300159, I move that the Board of Adjustment grant a request for a 2, 150 sq. ft. variance to a minimum lot size requirement of 4,000 sq. ft. to build a structure on a 1,850 sq. ft lot, situated at 1118 South Mesquite Street, applicant being Rey Gutierrez, 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 revision of the lot size of 1, 850 is so much like the other lots in the area.

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

The lot is already situated and therefore any change not allowing any reduction to the lot size is a hardship to the applicant.

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 there are similar lots that are below the 4000 square foot minimum in the area.

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

The variance will not authorize the operation of a use other than those uses specifically authorized by the district.

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 property is located within an older established neighborhood and the reduce lot size is consistent with the lots 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 Board finds that the plight of the property owner is sought due to the unique circumstances existing on the property due to the size of the lot being in an older neighborhood and multiple lots in the area also have reduced size.

Second: Bragman

In Favor: Albert, Menchaca, Cruz, Manna, Bragman, Lynde, Kaplan, Vasquez, Teel, Ozuna, Oroian

Opposed: None

Motion Granted

Kaplan made a motion to reconsider BOA-21-10300159

Second: Menchaca

In Favor: Albert, Menchaca, Cruz, Manna, Bragman, Lynde, Kaplan, Vasquez, Teel, Ozuna, Oroian

Opposed: None

Motion Granted

Kaplan made a motion for Approval: "Regarding Case No. BOA-21-10300159, I move that the Board of Adjustment grant a request for 1) a 4' 11" variance from the 5' side and rear setback requirement to allow an accessory detached dwelling unit to be 1" from the side and rear property lines, situated at 1118 South Mesquite Street, applicant being Rey Gutierrez, 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.

Second: Manna

Manna made a friendly amendment: 1) 2 foot variance from the rear setback to allow the accessory dwelling to be 3 feet from the rear property line.

In Favor: Albert, Menchaca, Cruz, Manna, Bragman, Lynde, Kaplan, Vasquez, Teel, Ozuna, Oroian

Opposed: None

Motion Granted

The Board of Adjustment went into recess at 2:08 pm and reconvened at 2:13 pm.

Item #4

BOA-21-10300195: A request by Jon Robinson for a 14' variance from the minimum 15' landscape buffer requirement to allow a 1' landscape buffer along Louis Pasteur Drive, located at 2023 Babcock Road. Staff recommends Approval. (Council District 8) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Staff stated 10 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and no response from the Dream Hill Estates Neighborhood Association.

Jon Robinson, applicant, Dutch Brothers Coffee, stated he has been working with the tree team for the correct planting and the requested variance is due to 100% impervious cover on the property.

The Board asked the applicant questions concerning the request. The Applicant responses were heard by the board, followed by a discussion among board members before the vote.

No Public Comment

Chair Oroian asked for a motion for item BOA-21-10300195 as presented.

Manna made a **motion** for BOA-21-10300195 for Approval.

“Regarding Case No. BOA-21-10300195, I move that the Board of Adjustment grant a request for a 14' variance from the minimum 15' landscape buffer requirement to allow a landscape buffer to be 1' along Louis Pasteur Drive, situated at 2023 Babcock Road, applicant being Jon Robinson, 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 request is to allow a 14' variance from the required 15' landscape buffer so that it can be 1' wide is not contrary to the public interest.

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

The Board finds that any special conditions that, if enforced, would result in an unnecessary hardship. By imposing a literal enforcement, the owner would have to redesign the property again, reduce the footprint of the structure to meet the landscape buffer requirement or possibly not be able continue with construction plans as the limited amount of available space restricts the ability to function as a business.

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 buffer is to allow adequate permeable land and provide safety for both customers and pedestrians. There is sufficient space between the landscape buffer and the proposed business. The landscape buffer requirements are also being met along Babcock Road, so the spirit of the ordinance appears to be observed.

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

The variance will not authorize the operation of a use other than those uses specifically authorized by the district.

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 variance request for the landscape buffer does not pose a risk of substantially injuring the use of adjacent properties and does not seem likely to 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.

The Board finds that the plight of the property owner is sought due to the unique circumstances existing on the property in that the current lot is almost made out of 100% impermeable cover and any improvement to increase greenspace would be beneficial. The owner purchased the property with the current lot size, and has redesigned the development to be beneficial to both the Traffic and Tree Teams.”

Second: Cruz

In Favor: Albert, Menchaca, Cruz, Manna, Bragman, Lynde, Kaplan, Vasquez, Teel, Ozuna, Oroian

Opposed: None

Motion Granted**Item #5**

BOA-21-10300182: A request by Mario Nerio for 1) a variance from the Beacon Hill Neighborhood Conservation design standards requirement of a minimum of 25% of the surface area of each story on the front façade shall be dedicated to window coverings to allow 24% of the surface area of window coverings, and 2) a 2' 8" variance to a 5' side setback requirement to allow a room addition to be 2' 4" from the side property line, located at 629 West Hollywood Avenue. Staff recommends Denial with an Alternate Recommendation. (Council District 1) (Richard Bautista-Vazquez, Planner (210) 207-0215, Richard.Bautista-Vazquez@sanantonio.gov, Development Services Department)

Staff stated 35 notices were mailed to property owners within 200 feet, 1 returned in favor, 1 returned in opposition, and the Beacon Hill Neighborhood Association is in opposition.

Mario Nerio, applicant, stated he was unaware that he needed permits for the work and is requesting the variance to be in compliance.

Charlotte, applicant, stated they will add a door and windows on the property.

Public Comment:**Voicemails:**

Cosima Colvin, Beacon Hill NA, not opposed to 1% variance request.

Jennifer DeGraaf, no address, opposed

The Board asked the applicant questions concerning the request. The Applicant responses were heard by the board as well as other testimonies offered, followed by a discussion among board members before the vote.

Chair Oroian asked for a motion for item BOA-21-10300183 as presented.

Manna made a **motion** for BOA-21-10300183 for approval.

Regarding Case No. BOA-21-10300182, I move that the Board of Adjustment grant a request for 1) a 1% variance from the Beacon Hill Neighborhood Conservation design standards requirement of a 25% minimum of the surface area of each story on the front façade shall be dedicated to window coverings to allow 24% of the surface area of the front façade to be window coverings and 2) a 2' 8" variance from the minimum 5' side setback requirement to allow an addition to be 2' 4" from the side property line, situated at 629 West Hollywood Avenue, applicant being Mario Nerio, 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 request variance from the NCD standards and the side setback variance do not appear to be contrary to the public interest.

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

The Board finds that any special conditions that, if enforced, would result in an unnecessary hardship. The existing structure led the applicant to follow the existing line to cover the water heater in the rear yard. The relocation of the front door has led to the removal of the windows, and the request is only for 1% less than the requirement.

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 requested variances do appear to observe the spirit of the ordinance of the Beacon Hill NCD design standards and the side setback.

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

The variance will not authorize the operation of a use other than those uses specifically authorized by the district.

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 Board finds that the requested variances do not appear to substantially injure adjacent properties nor alter the essential character of the district. The existing home had the water heater exposed, and the enclosure follows the side of the home.

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 Board finds that the plight of the property owner is sought due to the unique circumstances existing on the property, such as the placement of the existing dwelling not conforming to the current side setback code, and is not merely financial.

Second: Kaplan

In Favor: Menchaca, Cruz, Manna, Bragman, Kaplan, Vasquez, Teel, Ozuna, Oroian

Opposed: Albert, Lynde

Motion Granted with a vote of 9-2.

Item #6

BOA-21-10300198: A request by Adam Gates for a 1) a 15' variance from the minimum 20' rear setback requirement to allow a structure to be 5' from the rear property line and 2) a 3,119 sq. ft. variance from the minimum 6,000 sq. ft. requirement to allow a 2,881 sq. ft. lot, located at 117 Rehmann Street. Staff recommends Approval. (Council District 1) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Staff stated 36 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and Collins Garden Neighborhood Association is recommending Denial.

Adam Gates, applicant, stated the request is for a vacant lot to meet the “R-2” lot size for a potential duplex.

No Public Comment

The Board asked the applicant questions concerning the request. The Applicant responses were heard by the board as well as other testimonies offered, followed by a discussion among board members before the vote.

Chair Oroian asked for a motion for item BOA-21-10300198, as presented.

Teel made a **motion** for BOA-21-10300198 for approval.

Regarding Case No. BOA-21-10300198, I move that the Board of Adjustment grant a request for 1) a 15' variance from the minimum 20' rear setback requirement to allow a structure to be 5' from the rear property line and 2) a 3,119 sq. ft. variance from the minimum 6,000 sq. ft. requirement to allow a 2,881 sq. ft. lot., situated at 117 Rehmann Street, applicant being Adam Gates, 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 request to allow a residential structure to be built 5 ft from the rear property line and on a vacant lot that is 2,881 sq. ft. in size is not contrary to the public interest as the applicant has adequate space from any adjacent structure.

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

The Board finds that any special conditions that, if enforced, would result in an unnecessary hardship. By imposing a literal enforcement, the owner would not be able to build a structure due to not meeting the minimum lot size requirements as they would be short by 3,119 sq. ft. and they would have to reduce the footprint of the house from the rear by 15 ft to accommodate the 20 ft rear setback.

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 rear setbacks and the minimum lot size variance is to allow for adequate space between neighboring properties. There is sufficient space between the neighboring properties and there will be plenty of space between structures as to not pose any fire or life safety issue which is observed.

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

The variance will not authorize the operation of a use other than those uses specifically authorized by the district.

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 request for a minimum lot size variance of 3,119 sq. ft. and to have a rear setback variance of 15' from the property line does not pose a risk of substantially injuring the use of adjacent properties and does not seem likely to 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.

The Board finds that the plight of the property owner is sought due to the unique circumstances existing on the property in that the lots sizes are similar in the area and other residential structures are built on similar lot sizes. The owner purchased the property with the current lot size and it was not altered or subdivided by the owner.”

Second: Bragman

In Favor: Albert, Menchaca, Cruz, Manna, Bragman, Lynde, Kaplan, Vasquez, Teel, Ozuna, Oroian

Opposed: None

Motion Granted

The Board of Adjustment meeting went into recess at 3:18 pm and reconvened at 3:28 pm.

Item #7

BOA-21-10300199: A request by Arturo Rangel for 1) a 3' variance from the minimum 5' side setback requirement, to allow a carport with 1' 2" overhang to be 2' away from the side property line and 2) a 7' 6" variance from the minimum 10' front setback requirement, to allow a carport with a 1' 2" overhang to be 2' 6" from the front property line, located at 135 Jade Drive. Staff recommends Denial with an Alternate Recommendation. (Council District 1) (Richard Bautista-Vazquez, Planner, (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 37 notices were mailed to property owners within 200 feet, 12 returned in favor, 0 returned in opposition, and no registered neighborhood association.

Arthur Rangel, applicant, stated he was not aware of the setback requirements or permit process for carports. He amended the request to include gutters.

No Public Comment

The Board asked the applicant questions concerning the request. The Applicant responses were heard by the board as well as other testimonies offered, followed by a discussion among board members before the vote.

Chair Oroian asked for a motion for item BOA-21-10300199 as presented.

Manna made a **motion** for BOA-21-10300199 for approval.

Regarding Case No. BOA-21-10300199, I move that the Board of Adjustment grant a request for 1) a 3' variance from the minimum 5' side setback requirement to allow a carport that is 31 feet in length with a 1' 2" overhang to be 2' away from the side property line and 2) a 7' 6" variance from the minimum 10' front setback requirement to allow a carport with 1' 2" overhang to be 2' 6" from the front property line, situated at 135 Jade Drive, applicant being Arturo Rangel, 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 variance requests to the side and front setback do not appear to be contrary to the public interest as there are other similar carports in the vicinity.

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 move the post of the structure to 5' away from side property lines and 10' from the front property lines which would require a possible demolition of the carport to build.

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 variance for the carport was constructed for protection of the vehicles that will be placed under the structure and will not adversely affect surrounding properties in the immediate 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.

With there being similar carports in the area, it does not appear as though the carport will substantially injure adjacent properties nor change the essential character of the district. The applicant has amended the application to include gutters on the side facing the neighbor.

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 small amount of available space for the driveway.

Second: Teel

In Favor: Albert, Menchaca, Cruz, Manna, Bragman, Lynde, Kaplan, Vasquez, Teel, Ozuna, Oroian

Opposed: None

Motion Granted

Item #8

BOA-22-10300001: A request by Ernesto Martinez for a 16' variance from the minimum 20' front setback required by the "NP-8" Neighborhood Preservation District to allow a carport with 4' from the front property line, located at 5543 Aspen Valley Drive. Staff recommends Approval. (Council District 4) (Rebecca Rodriguez, Planner, (210) 207-0120, Rebecca.Rodriguez@sanantonio.gov, Development Services Department)

Staff stated 33 notices were mailed to property owners within 200 feet, 1 returned in favor, 0 returned in opposition. No responses from Valley Forest Neighborhood Association or People Active in Community Effort-P.A.C.E.

Cynthia Martinez, applicant, stated she has lived on the property for 35 years and wants a carport for her vehicles due to possible disability needs in the future. She stated she is requesting the variance before doing any construction.

No Public Comment

The Board asked the applicant questions concerning the request. The Applicant responses were heard by the board as well as other testimonies offered, followed by a discussion among board members before the vote.

Chair Oroian asked for a motion for item BOA-22-10300001 as presented.

Bragman made a **motion** for BOA-22-10300001 for approval.

"Regarding Case No. BOA-22-10300001, I move that the Board of Adjustment grant a request for a 16' variance to allow a carport with 4' from the front property line, situated at 5543 Aspen Valley, applicant being Ernesto 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 not contrary to the public interest.

The public interest is defined as the general health, safety, and welfare of the public. The request to allow an attached carport to be 4' from the front property line is not contrary to the public interest.

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

The Board finds that any special conditions that, if enforced, would result in an unnecessary hardship. By imposing a literal enforcement of a twenty-foot setback, a carport could not be built on this 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. Substantial justice will be done by allowing the carport to be built 4' from the front property line.

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

The variance will not authorize the operation of a use other than those uses specifically authorized by the district.

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 proposed structure does not cause any concern and does not appear to substantially injure uses of adjacent conforming properties or the character of the neighborhood. The property is within a neighborhood where carports are commonly found.

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 Board finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property. The configuration of the residence on the lot prevents the development of a carport with a twenty-foot front setback therefore circumstances are not merely financial.

Second: Kaplan

In Favor: Albert, Menchaca, Cruz, Manna, Bragman, Lynde, Kaplan, Vasquez, Teel, Ozuna, Oroian

Opposed: None

Motion Granted

Item #9

BOA-22-10300003: A request by Salvador Flores for 1) a 10" special exception from the maximum 3' front yard solid screened fencing requirement to allow a 3' 10" solid screened fence and 2) a 2' 2" variance from the maximum 6' fence height requirement to allow an 8' 2" solid screened fence along the side and rear property lines, located at 419 Marshall Street. Staff recommends Denial. (Council District 1) (Richard Bautista-Vazquez, Planner, (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 15 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition, and no response from the Five Points Neighborhood Association.

Salvador Flores, applicant, stated the variance is to increase the fence height for safety, security, and privacy for his family with young children.

No Public Comment

The Board asked the applicant questions concerning the request. The Applicant responses were heard by the board as well as other testimonies offered, followed by a discussion among board members before the vote.

Chair Oroian asked for a motion for item BOA-22-10300003 as presented.

Teel made a **motion** for BOA-22-10300003 for approval.

Regarding Case No. BOA-22-10300003, I move that the Board of Adjustment grant a 10” special exception from the maximum 3’ front yard solid screened fencing requirement to allow a 3’ 10” solid screened fence and, situated at 419 Marshall Street, applicant being Salvador 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:

A. The special exception will be in harmony with the spirit and purpose of the chapter.

The UDC states the Board of Adjustment can grant a special exception for a fence height modification. The additional fence height was observed upon the site visit and, if granted, the Board finds the request would be in harmony with the spirit and purpose of the ordinance.

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

The fence that is located along the front property line and is exceeding the maximum height requirement by 10”. The fence will still serve the public welfare and convenience.

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

The fence will create enhanced security and privacy for the subject property and is unlikely to substantially injure any neighboring properties.

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

The additional height for the section of front yard fence does not appear to alter the essential character of the district.

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

The current zoning permits the current use of a single-family home. The requested special exception will not weaken the general purpose of the district.

Second: Manna

In Favor: Albert, Menchaca, Cruz, Manna, Bragman, Lynde, Kaplan, Vasquez, Teel, Ozuna, Oroian

Opposed: None

Motion Granted

Teel made a **motion** for BOA-22-10300003 for approval.

“Regarding Case No. BOA-22-10300003, I move that the Board of Adjustment grant a 2’ 2” variance from the maximum 6’ fence height requirement to allow an 8’ 2” solid screened fence along the side and rear property lines only, situated at 419 Marshall Street, applicant being Salvador 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 public interest is defined as the general health, safety, and welfare of the public. The proposed fence along the side and rear property lines do not appear to be 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 the applicant installing a 6’ tall fence, which may not provide enough security to the property being that it close to uses other than residential.

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 variance to the fence height appears to observe the spirit of the ordinance as it will provide additional security and privacy to the property.

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

The variance will not authorize the operation of a use other than those uses specifically authorized by the district.

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 and rear fence that measures at 8' 2" does not appear out of the ordinary and will not negatively affect the surrounding area.

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

The Board finds that the plight of the property owner is sought due to the unique circumstances existing on the property and is not merely financial.

Second: Manna

Chair Oroian made an amendment: to add an 8 foot fence on the eastside of the property. Teel and Manna accepted the amendment.

Chair Oroian stated the motion is read for an 8 foot fence on the side and rear, except does not apply to the part that parallels the street on the eastside of the home.

In Favor: Menchaca, Cruz, Manna, Bragman, Lynde, Kaplan, Vasquez, Teel, Ozuna, Oroian

Opposed: Albert

Motion Granted with a vote of 10-1.

Item #10 Approval of the minutes from the Zoning Board of Adjustment meeting on January 24, 2022.

Motion: Chair Oroian made a **motion** for Approval of the January 24, 2022 minutes as amended.

Second: Bragman

In Favor: Albert, Menchaca, Cruz, Manna, Bragman, Lynde, Kaplan, Vasquez, Teel, Ozuna, Oroian

Opposed: None

Abstained: Bragman

Minutes approved.

Adjournment

There being no further business, the meeting was adjourned at 4:13 P.M.

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary