



DRAFT

Board of Adjustment Minutes

Development and Business Services
Center
1901 South Alamo

April 4, 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, Kaplan, 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 #2 **(Continued from 03/21/2022) BOA-22-10300016:** A request by Jason Reed for a 10' variance from the minimum 15' landscape bufferyard requirement to allow a 5' landscape buffer, located at 1735 South WW White Road. Staff recommends Denial. (Council District 2) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Staff stated the applicant requested a continuance until the May 2, 2022, Board of Adjustment meeting.

No Public Comment

Chair Oroian asked for a motion for item BOA-22-10300016 as presented.

Bragman made a **motion** for item BOA-22-10300016 to be continued to May 2, 2022.

Second: Cruz

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

Opposed: None

Motion Granted for a continuance for BOA-22-10300016 to May 2, 2022.

Item #4 **BOA-22-10300014:** A request by Steve Williams for a special exception from the Short Term Rental density limitation to allow one (1) additional Type 2 Short Term Rental Permit on the blockface, located at 511 Elmhurst Drive. Staff recommends Denial. (Council District 2) (Kayla Leal, Principal Planner (210) 207-0197, Kayla.Leal@sanantonio.gov, Development Services Department)

Public Comment:

Voicemail:

Drea Garza, PO Box 100315, spoke in opposition.

Naylor Gray, 530 Elmhurst, spoke in opposition.

Taylor Watson, 743 Eleanor Ave., spoke in opposition.

Bill Bordelon, 511 Elmhurst, spoke in opposition.

Rhoda Auerbach, 507 Parland Place, spoke in opposition.

Chair Oroian asked for a motion for item BOA-22-10300014 as presented.

Teel made a **motion** for item BOA-22-10300014 to be continued to April 18, 2022.

Second: Bragman

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

Opposed: Kaplan

Motion Granted 8-1 majority for a continuance for BOA-22-10300014 to April 18, 2022.

Item #1 **(Continued from 02/21/2022) BOA-21-10300180:** A request by Daniel Kang for a special exception from the Short Term Rental density limitation to allow one (1) additional Type 2 Short Term Rental Permit on the blockface, located at 511 Furr Drive. Staff recommends Denial. (Council District 7) (Kayla Leal, Principal Planner (210) 207-0197, Kayla.Leal@sanantonio.gov, Development Services Department)

Staff stated 37 notices were mailed to property owners within 200 feet, 1 returned in favor, 4 returned in opposition, 4 received outside the 200 feet in opposition, and Monticello Park Neighborhood Association is opposed.

Rachel Mulch, representative, stated the request for the additional short-term rental permit is to accommodate traveling nurses.

Public Comment:

Voicemail:
Drea Garza, PO Box 100315, spoke in opposition.

Bianca Maldonado, 457 Club Dr., spoke in opposition.

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-21-10300180.

Manna made a **motion** for BOA-21-10300180 for Approval.

Regarding Case No. BOA-21-10300180, I move that the Board of Adjustment grant a special exception to allow for (1) Type 2 short term rental unit, situated at 511 Furr Drive, applicant being Daniel Kang, 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 a 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.

The Board finds that there are a total of six (6) residential units on this blockface and the special exception would permit a total of two (2) Type 2 short term rentals, resulting in 33.3% of the blockface. The percentage is not much greater than what is permitted, and with the applicant residing within San Antonio, this provides reason to believe a public nuisance seems unlikely to be created.

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

The surrounding area includes a mixture of different densities such as duplexes and triplexes which give reason to believe there are multiple rentals in the area. The subject property is located in close proximity to the commercial corridor of Fredericksburg Road. The unique scenario and area 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 currently does hold multiple Short Term Rental Permits and does not have any history of revocation, citations, or convictions for violations of Chapter 16.

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 commercial, recreational, and other residential uses. With the property owner providing off-street parking and maintaining it, 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.

Second: Teel

In Favor: None

Opposed: Kaplan, Albert, Menchaca, Cruz, Manna, Bragman, Teel, Ozuna, Oroian

Motion Fails 0-9.

Item #3 **BOA-22-10300023**: A request by Roel Flores for a 2,292 square foot variance from the minimum 6,000 square foot requirement to allow a lot size of 3,708 square feet, located at 123 Burcham Avenue. Staff recommends Approval. (Council District 3) (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 there is no registered neighborhood association.

No Public Comment

Chair Oroian asked for a motion for item BOA-22-10300023 as presented.

Bragman made a **motion** for BOA-22-10300023 for Approval.

Regarding Case No. BOA-22-10300023, I move that the Board of Adjustment grant a request for a 2,292 sq. ft. variance from the minimum 6,000 sq. ft. lot size requirement to allow a lot size of 3,708 sq. ft., situated at 123 East Burcham Avenue, applicant being Roel 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 request is to allow a lot size of 3,708 sq. ft. 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 not be able to build a structure due to not meeting the minimum lot size requirements.

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

The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. There is sufficient space between the neighboring properties and there will be plenty of space between structures as to not pose any fire, life or safety issue which observes the spirit of the ordinance.

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- 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 2,292 sq. ft. 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 in its current size and shape and it was not altered or subdivided by the owner.

Second: Teel

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

Opposed: None

Motion Granted.

Item #5

BOA-22-10300010: A request by First Mark Credit Union for a 1) 16’ variance from the 24’ sign height maximum to allow a sign to be 40’ tall and 2) a 75 square foot variance from the 150 square foot sign maximum to allow a sign to be 225 square feet, located at 3200 Fredericksburg Road. Staff recommends Denial. (Council District 8) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Staff stated 26 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, no response from the Los Angeles Neighborhood Association, and the Monticello Park Neighborhood Association is opposed.

Wes Puttman, applicant, requested the sign variance so that the sign be placed above a VIA bus stop due to a height hardship.

Public Comment:Voicemail:

Drea Garza, PO Box 100315, spoke in opposition.

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-22-10300010 as presented.

Teel made a **motion** for BOA-22-10300010 for Approval.

Regarding Case No. BOA-22-10300010, I move that the Board of Adjustment grant a request for 1) 12' variance from the 24' sign height maximum to allow a sign to be 36' tall and 2) no square footage variance be required, situated at 3200 Fredericksburg Road, applicant being First Mark Credit Union, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

1. *The variance is necessary because strict enforcement of this article prohibits any reasonable opportunity to provide adequate signs on the site, considering the unique features of a site such as its dimensions, landscaping, or topography; or*
2. *A denial of the variance would probably cause a cessation of legitimate, longstanding active commercial use of the property.*

The property currently qualifies for a sign at 24' in height and no more than a 150 sq. ft. on this particular lot fronting an Arterial Road. The request to maintain the height and square footage does not appear to be excessive in nature and seems likely to cause a cessation of commercial use of the property.

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 request does not appear out of character with the surrounding commercial properties and the proposed sign does not appear to provide the applicant with special privilege as there is a VIA transit station in front of the subject property.

- 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 most of the other signs are existing.

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

The requested variance appears to substantially conflict with the stated purpose of the chapter. A sign exceeding the 24 foot requirement in height and the 150 square foot requirement does not appear to substantially conflicted with the stated purpose of this article.

Second: Kaplan

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

Opposed: None

Motion Granted.

Item #6

BOA-21-10300196: A request by Joseph Palumbo for a 9' 10" variance from the minimum 10' front setback requirement to allow a carport to be 2" from the front property line, located at 5606 Spring Sunshine. Staff recommends Approval. (Council District 10) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Staff stated 47 notices were mailed to property owners within 200 feet, 5 returned in favor, 0 returned in opposition, and there is no registered neighborhood association.

Jesus Borbon, applicant, stated to amend his application to include gutters.

No Public Comment

The Board asked the applicant and staff questions concerning the request. The applicant and staff 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-21-10300196, as presented.

Ozuna made a **motion** for BOA-21-10300196 for Approval.

Regarding Case No. BOA-21-10300196, I move that the Board of Adjustment grant a request for a 9' 10" variance from the minimum 10' front setback requirement to allow a carport to be 2" front the front set back, situated at 5606 Spring Sunshine, applicant being Jesus Borbon, 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. The applicant has also amended his application to include gutters.

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 carport to be 2” front the front property line which is not contrary to the public interest as the applicant has adequate space from any adjacent structure and the city right of way.

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 carport as there is not enough space to protect his vehicles and abide by the setbacks. The applicant has already had to move the post once and unable to financially move them again.

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 front setback is not to impede the right of way which moving of the post has met that requirement. There is sufficient space between the carport structure and neighboring properties, which there is no issue of water runoff and no fire/life safety issue which is observed. The applicant will be including gutters as part of his application submittal.

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 carport to be 2” away from the front property line will only enhance the property value of the residential structure. The carport likely will not pose a risk of substantially injuring the use of adjacent properties nor negatively affect neighboring 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 smaller lots sizes are similar in the area and do not provide enough room to abide by setbacks and install a carport to protect vehicles.

Second: Kaplan

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

Opposed: None

Motion Granted.

Item #7

BOA-22-10300013: A request by Bruce Moore for a 2’ special exception from the maximum 6’ fence height requirement to allow an 8’ solid screened fence along the side and rear property lines, located at 246 Irvington Drive. Staff recommends Approval. (Council District 10) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautistavazquez@sanantonio.gov, Development Services Department)

Staff stated 25 notices were mailed to property owners within 200 feet, 2 returned in favor, 2 returned in opposition, and no response from the Terrell Heights Neighborhood Association.

Bruce Moore, applicant, stated she will amend her application to include gutters.

No Public Comment

The Board asked the applicant and staff questions concerning the request. The applicant and staff 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-22-10300013, as presented.

Teel made a **motion** for BOA-22-10300013 for Approval.

Regarding Case No. BOA-22-10300013, I move that the Board of Adjustment grant a request for a 2’ special exception from the maximum 6’ fence height requirement to allow an 8’ solid screened fence along the side and rear property lines, situated at 246 Irvington Drive, applicant being Bruce Moore, 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 additional fence height as proposed would be in harmony with the spirit and purpose of the ordinance.

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

In this case, these criteria are represented by fence heights to protect residential property owners while still promoting a sense of community. 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 side and rear yard fence will not alter the essential character of the district.

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

The 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: Bragman

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

Opposed: None

Motion Granted.

The Board of Adjustment meeting went into recess at 2:35 P.M. and reconvened at 2:42 P.M.

Item #8 **BOA-22-10300020**: A request by Joe Wilson for 1) a 9” special exception from the maximum 6’ fence height requirement to allow a 6’ 9” solid screened fence along the side property line and 2) a 4’ 4” variance from the minimum 5’ rear setback to allow an accessory structure to be 1’ 8” from the rear property line, located at 9203 Tifton Drive. Staff recommends Approval. (Council District 7) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 34 notices were mailed to property owners within 200 feet, 25 returned in favor, 0 returned in opposition, and no response from Alamo Farms Neighborhood Association.

Joe Wilson, applicant, requested the special exception variance application for their fence be granted due to hardship. Applicant requested the application for an accessory structure rear setback variance be approved due to hardship.

Public Comment:

Voicemail:

Brenda Clark, 6710 Manassas Dr., spoke in favor.

Tod Goodwin, 9203 Proclamation Dr., spoke in favor.

Jesus Garcia, 6726 Manassas Dr., spoke in favor.

Jeb Jones, 9211 Tifton Dr., spoke in favor.

Karen George, 9207 Redleg, spoke in favor.

The Board asked the applicant and staff questions concerning the request. The applicant and staff 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-22-10300020 as presented.

Manna made a **motion** for BOA-22-10300020 for approval.

Regarding Case No. BOA-22-10300020, I move that the Board of Adjustment grant a request for 1) a 9” special exception from the maximum 6’ fence height requirement to allow a 6’ 9” solid screened fence along the side property line, situated at 9203 Tifton Drive, applicant being Joe Wilson, 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, staff finds the request would be in harmony with the spirit and purpose of the

ordinance.

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

In this case, these criteria are represented by fence heights to protect residential property owners while still promoting a sense of community. The fence is located along the side property line and is exceeding the maximum height requirement by 9”.

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 side yard fence will not alter the essential character of the district.

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

The 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: Cruz

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

Opposed: None

Motion Granted.

Chair Oroian asked for a motion for item BOA-22-10300020 as presented.

Manna made a **motion** for BOA-22-10300020 for approval.

Regarding Case No. BOA-22-10300020, I move that the Board of Adjustment grant a request for a 3’4” variance from the minimum 5’ rear setback to allow an accessory structure to be 1’ 8” from the rear property line, situated at 9203 Tifton Drive, applicant being Joe Wilson, 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 3’4” variance from the minimum 5’ rear setback to allow an existing accessory structure to be 1’ 8” from the rear property line.

- 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 structure to 5’ away from rear property lines which would require relocation of the structure.

- 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. A 3’ 4” variance from the minimum 5’ rear setback to allow an accessory structure to be 1’ 8” from the rear property line 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 Board finds the request for a 1’ 8” rear setback is enough space away from the property line. The structure has no overhang and is not likely to negatively affect the adjacent neighboring 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 such as the structure being pre-existing.

Second: Kaplan

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

Opposed: None

Motion Granted.

Item #9 **BOA-22-10300030**: A request by Jesse Villarreal for a special exception to allow a oneoperator beauty salon/barber shop, located at 226 Quentin Drive. Staff recommends Approval. (Council District 7) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 27 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition, and no response from Monticello Park Neighborhood Association.

Jesse Villarreal, applicant, requested a special exception for barber shop in his home.

Public Comment:

Voicemail:
Drea Garza, PO Box 100315, spoke in favor.

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-22-10300030 as presented.

Teel made a **motion** for BOA-22-10300030 for approval.

Regarding Case No. BOA-22-10300030, I move that the Board of Adjustment grant a request for a special exception to allow a one-operator beauty salon/barber shop, situated at 226 Quentin Dr, applicant being Jesse Villarreal, 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 single operator barber shop beauty salon. The Barber shop/beauty salon is intended to be operated by a single owner and will be in harmony with the spirit and purpose of the ordinance.

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

The applicant is proposing to operate a Barber Shop/Beauty Salon located at the residential property. The public welfare and convenience will be substantially served with this special exception.

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

The Barber Shop / Beauty Salon will not disrupt the privacy for the subject property and is highly unlikely to injure adjacent properties. The proposed hours of operation are Tuesday through Saturday from 10:00 am to 4:00 pm.

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 Barbershop / Beauty Salon will not alter the essential character of the district as the single-family dwelling will remain to appear as such.

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 and the option to operate a single-operator Barber/Beauty Salon. The requested special exception will not weaken the general purpose of the district.

Second: Manna

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

Opposed: None

Motion Granted.

Item #10

BOA-22-10300031: A request by Bradley Adam Bush for a 2' special exception from the maximum 6' fence height requirement to allow a solid screened fence to be 8' tall along the side and rear property lines, located at 4814 Bucknell Street. Staff recommends Approval. (Council District 8) (Rebecca Rodriguez, Senior Planner, (210) 207-0120, Rebecca.Rodriguez@sanantonio.gov, Development Services Department)

Staff stated 26 notices were mailed to property owners within 200 feet, 1 returned in favor, and 0 returned in opposition, and no registered neighborhood association.

Bradley Bush, applicant, requested a special exception for an 8-foot fence.

Public Comment:

Voicemail:

Andrew Ulack, 4810 Bucknell, spoke in favor.

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-22-10300031 as presented.

Cruz made a **motion** for BOA-22-10300031 for approval.

Regarding Case No. BOA-22-10300031, I move that the Board of Adjustment grant a 2' special exception from the maximum 6' fence height requirement to allow an 8' solid screened privacy fence along the side and rear property lines, situated at 4814 Bucknell, applicant being Bradley Adam Bush, 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 2' in height is intended to provide additional privacy to the property and surrounding properties by allowing extra height in an area where elevation changes are observed.

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

In this case, these criteria are represented by fence heights to protect residential property owners while still promoting a sense of community. An 8' wood privacy fence located along the side and rear property lines does not pose any adverse effects to the public welfare.

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

The Board finds that the fence will create additional privacy for the subject property and is unlikely to injure adjacent properties. Additionally, the property abuts a drainage easement, therefore, will additional security to the property.

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 2' in height will not alter the essential character of the district. The proposed fence will only be located along the rear and side property lines.

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: Kaplan, Albert, Menchaca, Cruz, Manna, Bragman, Teel, Ozuna, Oroian

Opposed: None

Motion Granted.

Item #11

BOA-22-10300033: A request by Maria Garcia for a 2’ 10” variance from the minimum 5’ side setback requirement to allow a structure with 1’ overhang to be 2’ 2” from the side property line, located at 1635 Arbor Place. Staff recommends Denial. (Council District 1) (Vincent Trevino, Senior Planner, (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 27 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition, and no registered neighborhood association.

Luis Frappos, representative, stated the structure was never demolished. Representative stated the structure is being remodeled and requested the variance be approved due to hardship.

Public Comment:

Russell Felan, 3507 Trailway Park St., spoke in favor upon amendment.

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-22-10300033 as presented.

Teel made a **motion** for BOA-22-10300033 for approval.

Regarding Case No. BOA-22-10300033, I move that the Board of Adjustment grant a request for a 2’ 10” variance from the minimum 5’ side setback requirement, as described in Section 35-310, to allow a structure with 1’ overhang to be 2’ 2” from the side property line, situated at 1635 Arbor Street, applicant being Maria Garcia, 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:

Criteria for Review – Variances

According to Section 35-482(e) of the UDC, in order for a variance to be granted, the applicant must demonstrate all of the following:

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 2' 10" variance to allow a structure with 1' overhang to be 2' 2" from the side property line which does 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. By imposing a literal enforcement, the owner would have to move the structure which would reduce the amount of space for a driveway.

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 side setback is to provide space to reduce life/safety risks. The request appears to observe the spirit of this 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.*

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 2' 10" variance from will not pose a risk of substantially injuring the use of adjacent properties nor negatively affect neighboring 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 structure is existing and the lot does not provide enough room to abide by setbacks.

Second: Manna

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

Opposed: None

Motion Granted.

Item #12 Approval of the minutes from the Zoning Board of Adjustment meeting on March 21, 2022.

Motion: Teel made a **motion** for Approval of the March 21, 2022 minutes.

Second: Cruz

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

Opposed: None

Minutes Approved.

Announcement:

Director's Report: Update on 2022 UDC Code Amendments.

Adjournment

There being no further business, the meeting was adjourned at 4:05 P.M.

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary