

**Board of Adjustment Minutes**

Development and Business Services Center
1901 South Alamo

September 19, 2022**1:02PM****1901 S. Alamo**

1:05 P.M. - Call to Order**- Roll Call**

Present: Spielman, Albert, Menchaca, Kaplan, Cruz, Teel, Manna, Oroian, Bragman, Ozuna, and Zuniga
Absent: None

2 Translators from SeproTec were present to assist with translating.

Briefing and Possible Action on the following items

- Item #1** **(WITHDRAWN) BOA-22-10300117:** A request by Gloria Sancho for a Special Exception to allow one (1) additional Type 2 Short Term Rental permit on the block face, located at 50 Kansas Street. Staff recommends Denial. (Council District 2) (Joshua Orton, Senior Planner, (210)-207-7945, Joshua.Orton@sanantonio.gov, Development Services Department))
- Item #2** **(POSTPONED) BOA-22-10300070:** A request by Cassandra Dearth for a 2' 5" variance from the minimum 5' side setback requirement to allow a structure with 1' 6" overhang and gutters to be 2' 5" from the side property line, located at 103 Vaughan Place. Staff recommends Approval. (Council District 7) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)
- Item #3** **BOA-22-10300018:** A request by Mary McGehee for a request for a 4' 11" variance from the minimum 5' side setback requirement to allow an attached carport to be 1" from the side property line, located at 223 West Mayfield Boulevard. Staff recommends Denial with an Alternate Recommendation. (Council District 3) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 31 notices were mailed to property owners within 200 feet, 0 returned in favor, 1 returned in opposition, and there is no registered homeowners association.

Alex Vasquez, representative, - stated the carport gutter system has been rerouted.

No Public Comment

Chair Oroian asked for a motion for **BOA-22-10300018**

Manna made a **Motion** for **BOA-22-10300018** for approval.

Regarding Case No. BOA-22-10300018, I move that the Board of Adjustment grant a request for a 4' 11" variance from the minimum 5' side setback to allow an attached carport to be 1" from the side property line, situated at 223 West Mayfield Boulevard, applicant being Mary McGehee, 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 applicants request for a 4' 11" variance from the minimum 5' side setback requirement to allow a carport with no overhang to be 1" from side property line is not contrary to the publics 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 property owner possibly having to replace the carport and conform to the 5' side setback.

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

The variance for the covered patio was possibly erected for protection of the weather elements and for protection of the items that will be placed under the structure. This 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.*

Staff finds the request is appropriate enough space away from the adjacent property line and is likely to not 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 the small size of the lot and is not merely financial in nature

Second: Kaplan

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

Opposed: Spielman and Zuniga

Motion Passes.

Item #4

BOA-22-10300063: A request by Tim Perez for 1) a 3' 8" variance from the minimum 5' side setback requirement to allow a carport with a 1' overhang and gutters to be 1'4" from the side property line, and 2) a 1' 4" special exception from the maximum 6' fence height to allow a solid screened fence to be 7' 4" tall along the side property line, located at 311 Bickley Street. Staff recommends Denial for Side Setback variance. Staff recommends Approval for Special Exception variance. (Council District 3) (Rebecca Rodriguez, Senior Planner, (210) 207-0120, Rebecca.Rodriguez@sanantonio.gov, Development Services Department)

Staff stated 36 notices were mailed to property owners within 200 feet, 1 returned in favor, 0 returned in opposition, and there is no registered homeowners association.

Garcia, representative, - requesting to rebuild a carport.

No Public Comment:

Chair Oroian asked for a motion for **BOA-22-10300063**

Ozuna made a **Motion** for **BOA-22-10300063** for approval.

Regarding Case No. BOA-22-10300063, I move that the Board of Adjustment grant a request for a 3' 8" variance from the minimum 5' side setback requirement to allow a carport with a 1' overhang and gutters to be 1'4" from the side property line, situated at 311 Bickley Street, applicant being Tim Perez, 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 because*

the structure will maintain the minimum front setback requirement and will have gutters installed to avoid water runoff to the neighboring property.

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

it would result in the structure having to maintain 5' to the side property line which will result in not being able to construct a carport along the side of the residence. The unnecessary hardship is due not having a sizable side yard.

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

the requested variance would allow a structure to be 1'4" from the side property line and will maintain gutters and require to be made of fire rated materials. Because of the width of the lot and placement of the residence, maintaining a 5' side setback is not attainable.

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*

as the property is zoned "R-4" and the use of the property is a single-family dwelling.

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 because*

other residences observed in the immediate area have similar carports therefore maintaining a 1'4" side setback does not appear to alter the essential character of 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.*

It appears the plight of the owner of the property for which the variance is sought is due to having a small side yard preventing the proposed carport to maintain a 5' side setback. The variance request is not merely financial.

Second: Teel

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

Opposed: None

Motion Passes.**Chair Oroian asked for a motion on the special exemption for BOA-22-10300063**

Regarding Case No. BOA-22-10300063, I move that the Board of Adjustment grant a 1' 4" special exception from the maximum 6' fence height to allow a solid screened fence to be 7' 4" tall along the side property line, situated at 311 Bickley Street, applicant being Tim Perez, 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 because **the proposed solid screened fence is only located along the side yard behind the front façade of the residence.***
- B. The public welfare and convenience will be substantially served because **the fence is less than 8' tall and the property has an alleyway located along the rear.***
- C. The neighboring property will not be substantially injured by such proposed use because **there are other solid screened fences located in the immediate area. An 8' fence is permitted by right along the rear property line due to an alleyway.***
- 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 because **The fence is not located past the front of the residence and is made of wood, a permitted construction material.***
- E. The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district because **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: Teel

Ozuna clarified the motion to say the existing fence condition is to remain the same and cannot be added to and Teel accepted the clarification.

In Favor: Spielman, Albert, Kaplan, Cruz, Teel, Oroian, Bragman, Ozuna, and Zuniga

Opposed: Menchaca and Manna

Motion Passes.**Item #5**

BOA-22-10300091: A request by Fidel Contreras for 1) a 4' 2" variance from the minimum 5' side setback requirement to allow a carport to be 10" from the side property line and 2) a 4' 4" variance from the minimum 5' side setback to allow a structure to be 8" from the side property line, located at 134 Carthage Street. Staff recommends Denial with Alternate Recommendation (Council District 5) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 31 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and there was no response from the Quintana Community Association.

Fidel Contreras, applicant used translation services, -stated he wants two carports, one for cars and one for blocking the sun. He also brought signatures and contact information from neighbors.

No Public Comment

Chair Oroian asked for a motion for **BOA-22-10300091**

Cruz made a **Motion** for **BOA-22-10300091** for approval.

Regarding Case No. BOA-22-10300091, I move that the Board of Adjustment grant a request for a 1) a 4' 2" variance from the minimum 5' side setback requirement to allow a carport with overhang and gutters to be 10" from the side property line, 2) a 4' 4" variance from the minimum 5' side setback to allow a structure with overhang and gutters to be 8" from the side property line, situated at 134 Carthage, applicant being Fidel Contreras, 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 variance request to allow a carport and an addition to encroach into the side yard setbacks do not appear contrary to the public interest due to the limited space existing on the property.

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

The subject property certainly has a unique configuration which may prevent further development into the sides of the lot. The variances to allow the carport and attached structure to be closer to the side property lines appears to avoid the hardship presented by the shape and size of the lot.

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

The requested variances will allow a carport and attached structure to be closer to the property line. The variances requested appear to observe the spirit of the ordinance as they do not negatively affect the surrounding areas.

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

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

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

Staff finds the requested variances do not alter the essential character of the district as these are new build structures and match the character of 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.*

It appears 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 unique configuration of the lot and size.

Second: Kaplan

Chair Oroian requested a friendly amendment to follow staff's recommendation for a 2' variance on the carport and the applicant's request for the covered area addition which was accepted by the maker of the motion (Cruz) but not accepted the 2nd (Kaplan).

Chair Oroian moved to amend the main motion to follow staff's recommendation for a 2' variance on the carport and the applicant's request for the covered area addition.

Second: Teel

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

Opposed: Spielman, Albert, Menchaca, Kaplan, and Zuniga

Motion to Amend fails.

Chair Oroian made a friendly amendment to follow staff recommendation for a 2' variance from the minimum 5' side setback requirement to allow a carport with overhang and gutters to be 3'

from the eastern side property line and an addition to be 3' from the western side property line which was accepted by the maker of the motion (Cruz) and the second (Kaplan).

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

Opposed: None

Motion passes.

Item #6

BOA-22-10300101: A request by David Reyes for a 2' 6" variance from the minimum 5' side setback requirement to allow a detached carport with overhang and gutters to be 2' 6" from the side property line, located at 378 Harcourt Avenue. Staff recommends Approval. (Council District 3) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 30 notices were mailed to property owners within 200 feet, 1 returned in favor, 0 returned in opposition, and there was no response from the Highland Hills Neighborhood Association.

David Reyes, applicant, - was told flat work does not need a permit but he will for building, so he's trying to do it the right way. He stated he spoke with his neighbors and they're not opposed.

Public Comment

Voicemail: Amy Guerero- in favor

Chair Oroian asked for a motion for **BOA-22-10300101**

Bragman made a **Motion** for **BOA-22-10300101** for approval.

Regarding Case No. BOA-22-10300101, I move that the Board of Adjustment grant a request for a 2' 6" variance from the minimum 5' side setback requirement to allow a detached carport located in the rear with overhang and gutters to be 2' 6" from the side property line., situated at 378 Harcourt Avenue, applicant being David Reyes, 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 because*

the variance request is to allow a detached carport with overhang and gutters to be 2' 6" from the side property line, which provides adequate spacing between the new structure and the side property line.

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

hardship because

it would result in the detached carport having to meet the minimum 5' side setback requirement and locating the carport 5' from the side property line would not allow a width great enough for a vehicle. The unnecessary hardship is due to the configuration of the property and an existing accessory structure.

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

a 2' 6" variance from the 5' minimum setback requirement will observe the spirit of the ordinance 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*

as the property is zoned "R-5" and the use of the property is a single-family dwelling.

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 because*

with the small available width for property in this area, the detached carport with overhang and gutters encroaching the side setback would not alter the 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.*

It appears 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. The variance request is not merely financial.

Second: Teel

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

Opposed: None

Motion passes.

Item #7

BOA-22-10300113: A request by Orange Property LLC for a request for a variance to exceed the 2.5 story maximum to allow 3 stories on a structure, located at 638 West Elmira Street. Staff recommends Approval. (Council District 1) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 25 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and there is no registered neighborhood association

Amanda Fly, representative, - stated council District 1 is in favor and five neighbors

No Public Comment

Chair Oroian asked for a motion for **BOA-22-10300113**

Teel made a **Motion** for **BOA-22-10300113** for approval.

Regarding Case No. BOA-22-10300113, I move that the Board of Adjustment grant a request for a variance to exceed the 2.5 story maximum, to allow 3 stories on a structure situated at 638 West Elmira Street, applicant being Orange Property LLC, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

The applicants request to allow 3 stories will not be contrary to the public's interest as the building was previously 3 stories in height before.

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

Without the requested variance the applicant will have to conform to the 2 1/2 maximum story requirement.

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

The requested variance is to allow a structure to be 3 stories in height. Due to the configuration of the property and the structure being existing, this 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.*

There are several other homes with a similar number of stories on West Elmira. The variance being requested will 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.*

It appears 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 structure being existing. The variance request is not merely financial.

Second: Kaplan

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

Opposed: None

Motion passes.

The meeting went into recess at 2:49 and returned at 3:01.

Item #8

BOA-22-10300114 : A request by Jason Whitehead for a Special Exception to allow one (1) additional Type 2 Short Term Rental permit on the block face, located at 1119 N Olive Street. Staff Recommends Denial. (Council District 1) (Joshua Orton, Senior Planner, (210)-207-7945, Joshua.Orton@sanantonio.gov, Development Services Department)

Staff stated 35 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and there was no response from the Dignowity Hill Neighborhood Association.

Jason Whitehead, applicant, - stated they would like a short term rental since they have to relocate for work, but do not want to sell the house.

No Public Comment

Chair Oroian asked for a motion for **BOA-22-10300114**

Ozuna made a **Motion** for **BOA-22-10300114** for approval.

Regarding Case No. BOA-22-10300114, I move that the Board of Adjustment grant a special exception to allow for (1) Type 2 short term rental unit, situated at 1119 North Olive Street, applicant being Jason Whitehead, 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 and industrial warehouses. This unique 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 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 and other residential uses of varying intensity. 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.

Second: Cruz

In Favor: Cruz, Teel, Oroian, Bragman, and Ozuna

Opposed: Spielman, Albert, Menchaca, Kaplan, Manna, and Zuniga

Motion fails**Item #9**

BOA-22-10300115: A request by Jorge Cervantes for a 9' 4" variance from the 10' minimum front setback to allow a carport with overhang and gutters on the front to be 8" from the front property line, located at 6006 Reef Ridge. Staff recommends Approval. (Council District 4) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 25 notices were mailed to property owners within 200 feet, 4 returned in favor, 0 returned in opposition, and there was no response from the People Active in Community Effort P.A.C.E.

Jorge Cervantes, applicant, stated he wanted to build a carport up to the front property line.

No Public Comment

Chair Oroian asked for a motion for **BOA-22-10300115**

Bragman made a **Motion** for **BOA-22-10300115** for approval.

Regarding Case No. **BOA-22-10300115**, I move that the Board of Adjustment grant a request for a 9' 4" variance from the 10' minimum front setback to allow a carport to be 8" from the front property line., situated at 6006 Reef Ridge, applicant being Jose Cervantes, 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 because*

the variance request is to allow a carport to be 8" from the front property line, which provides adequate spacing between the new structure and the front property line.

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

it would result in the structure having to be moved to meet the minimum 10' front setback requirement. The unnecessary hardship is due to the configuration of the property.

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

the structure will maintain a considerable distance between neighboring properties while also allowing the development of a carport. Due to the configuration of the property, this 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*

as the property is zoned “R-6” and the use of the property is a single-family dwelling.

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 because*

other carports are also present in the area and appear similar in material to the one built on the subject property.

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

It appears 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 configuration of the lot. The variance request is not merely financial.

Second: Teel

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

Opposed: None

Motion passes.

Item #10

BOA-22-10300120: A request by Jennifer Melde for a 1) a 14' 11" variance from the 20' minimum rear setback requirement to allow an addition to be 5' 1" from the rear property line, 2) a 1' 5" variance from the 5' minimum side setback requirement to allow an addition to be 3' 7" from the side property line, and 3) a 2' variance from the 5' minimum side setback to allow an attached carport with gutters to be 3' from the side property line, located at 315 Leigh Street . Staff recommends Approval. (Council District 1) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 31 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and the Lavaca Neighborhood Association is opposed.

Nate Manford, representative, - stated it was a room addition and they met with Lavaca

Neighborhood Association who expressed support and worked with them.

No Public Comment

Chair Oroian asked for a motion for **BOA-22-10300120**

Teel made a **Motion** for **BOA-22-10300120** for approval.

Regarding Case No. BOA-22-10300120, I move that the Board of Adjustment grant a request for 1) a 14' 11" variance from the 20' minimum rear setback requirement to allow an addition to be 5' 1" from the rear property line, 2) a 1' 5" variance from the 5' minimum side setback requirement to allow an addition to be 3' 7" from the side property line, and 3) a 2' variance from the 5' minimum side setback to allow an attached carport with gutters to be 3' from the side property line, situated at 315 Leigh Street, applicant being Jennifer Melde, 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 variance requests are to allow a structure to expand and encroach in the side, rear and front setbacks. There are other similar structures in the area with similar setback therefore the variances request are not contrary to the public interest.

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

It would result in the structure having to meet the minimum setback requirements from the side and rear property line. The unnecessary hardship is due to the limited size on the lot.

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

The requested variances is to allow a structure to be closer to the side and rear property line and a carport to be closer to the side property line. Due to the configuration of the property this 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.*

There were additional properties located along Leigh Street with structures within the setbacks due to the size of the lots. The requested side and rear variances are lily not 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.*

It appears 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 location of the lot. The variance request is not merely financial.

Second: Kaplan

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

Opposed: None

Motion passes.

Item #11

BOA-22-10300122: A request by Marcus Bledsoe for a 920 sq. ft. variance from the minimum 4,000 sq. ft. lot size requirement to allow a lot size of 3,080 sq. ft., located at 2014 Montezuma. Staff recommends Approval. (Council District 5) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 38 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and there was no response from the El Charro

Marcus Bledsoe, applicant- stated he wanted to continue construction

No Public Comment

Chair Oroian asked for a motion for **BOA-22-10300122**

Ozuna made a **Motion** for **BOA-22-10300122** for approval

Regarding Case No. BOA-22-10300122, I move that the Board of Adjustment grant a request for a 920 sq. ft. variance from the minimum 4,000 sq. ft. lot size requirement to allow a lot size of 3,080 sq. ft., situated at 2014 Montezuma, applicant being Marcus Bledsoe, 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 because*

the request does not appear to be contrary to the public interest as there are similarly sized

lots in the surrounding area.

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

there are other lots in the surrounding area that have a similar size with single-family dwellings constructed on them.

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

a residential structure would be a sufficient use of this property and enhance the immediate vicinity.

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*

as the property is zoned “R-4” and the use of the property is a single-family dwelling.

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 because*

the minimum lot size is not out of character nor will 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.*

It appears 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 lot size. The smaller lot size is not out of character of the local neighborhood and will not negatively affect surrounding property values.

Second: Bragman

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

Opposed: None

Motion passes.

- Item #12** **BOA-22-10300123:** A request by Reuben Rivas for 1) a 6" variance from the minimum 10' front setback requirement to allow a structure to be 9' 6" from the front property line, 2) a 5' variance from the minimum 10' side setback requirement to allow a structure to be 5' from the side property

line, 3) a 5' variance from the minimum 10' rear setback requirement to allow a structure to be 5' from the rear property line, and 4) a half-story variance from the two and a half story maximum to allow a structure to be three stories tall, located at 301 Piedmont Avenue. Staff recommends Approval for Front, Side, and Rear setback variances. Staff recommends Denial for Half-Story variance. (Council District 2) (Rebecca Rodriguez, Senior Planner, (210) 207-0120, Rebecca.Rodriguez@sanantonio.gov, Development Services Department)

Staff stated 28 notices were mailed to property owners within 200 feet, 1 returned in favor, 0 returned in opposition, and the Denver Heights Neighborhood Association is opposed.

Lydia Rodriguez, representative, - wants to build two single family residences. Stated they obtained five signatures of neighbors in favor.

Public Comment:
Titus Williams, in favor

Chair Oroian asked for a motion for **BOA-22-10300123**

Teel made a **Motion** for **BOA-22-10300123** for approval.

Regarding Case No. BOA-22-10300123, I move that the Board of Adjustment grant a request for 1) a 6" variance from the minimum 10' front setback requirement to allow a structure to be 9' 6" from the front property line, 2) a 5' variance from the minimum 10' side setback requirement to allow a structure to be 5' from the side property line, 3) a 5' variance from the minimum 10' rear setback requirement to allow a structure to be 5' from the rear property line, and 4) a half-story variance from the two and a half story maximum to allow a structure to be three stories tall, situated at 301 Piedmont Avenue, applicant being Reuben Rivas, 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 because*

the structures will have adequate spacing between the adjacent properties and will not exceed three stories.

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

it would result in having to abide with the setback requirements and maintain the height at 2 ½ stories, which could lead to having a significant reduction on the building footprint.

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

the structures do not encroach on the neighboring properties and does not pose a fire/safety hazard to any neighboring structures.

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*

as the property is zoned “RM-4” and the use of the property is a single-family dwelling.

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 because*

Non-conforming structures found in the area do not maintain the required setbacks, therefore the request does not appear to alter the essential character of 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.*

It appears the plight of the owner of the property for which the variance is sought is due to the size of the lot, and the proposed frontage of Wyoming Street. The request does not appear merely financial.

Second: Bragman

Teel amended the motion to only pertain to items 1, 2, and 3; 4 will be considered separately and commissioner **Bragman** accepted.

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

Opposed: None

Motion passes.

Teel moved to motion item number 4 as originally read separate from the first motion

Second: Kaplan

In Favor: Oroian, Teel, Bragman, Ozuna

Opposed: Spielman, Albert, Menchaca, Kaplan, Cruz, and Manna

Abstained: Zuniga

Motion fails.

Item #13 BOA-22-10300125: A request by Mark Barton for a 3' variance from the minimum 5' side setback

requirement to allow a carport with overhang and gutters to be 2' from the side property line, located at 1807 Purnell Avenue. Staff recommends Approval. (Council District 4) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 25 notices were mailed to property owners within 200 feet, 1 returned in favor, 1 returned in opposition, and there is no registered neighborhood association.

Mark Barton, applicant, stated he wanted a variance request and to not have to make too many adjustments to the carport.

Public Comment:

Voicemail: Ruben Vasquez, in opposition.

Chair Oroian asked for a motion for **BOA-22-10300125**

Manna made a **Motion** for **BOA-22-10300125** for approval

Regarding Case No. BOA-22-10300125, I move that the Board of Adjustment grant a request for a 3' variance from the minimum 5' side setback requirement to allow a carport with overhang and gutters to be 2' from the side property line., situated at 1807 Parnell Avenue, applicant being Mark Barton, 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 because*

the variance request is to allow a carport with overhang and gutters to be 3' from the side property line.

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

it would result in the structure having to be moved to meet the minimum 5' side setback requirement. The unnecessary hardship is due to the configuration of the property.

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

a 3' variance from the 5' minimum side setback requirement will observe the spirit of the ordinance 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*

as the property is zoned “R-4” and the use of the property is a single-family dwelling.

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 because*

the structure will maintain a 2’ setback from the side property line, respectively. This will not alter the essential character of the district as there are similar accessory structures in the area with similar 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.*

It appears the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property. The existing structure cannot be developed with the existing setback requirements as there is insufficient space. The variance request is not merely financial.

Second: Bragman

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

Opposed: None

Motion passes.

- Item #14** **BOA-22-10300133:** A request by Aviad Peretz for 1) a 9" variance from the minimum 5' side setback to allow a structure with overhang and gutters to be 4' 3" from the side property line and 2) a 1' 10" variance from the minimum 5' rear setback requirement to allow a structure with overhang and gutters to be 3' 2" from the rear property line, located at 301 South Monumental. Staff recommends Approval. (Council District 2) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 32 notices were mailed to property owners within 200 feet, 6 returned in favor, 0 returned in opposition, and there was no response from the Denver Heights Neighborhood Association.

Aviad Peretz, applicant- not present due to miscommunication.

No Public Comment

Chair Oroian asked for a motion for **BOA-22-10300133**

Teel made a **Motion** for **BOA-22-10300133** for approval.

Regarding Case No. BOA-22-10300133, I move that the Board of Adjustment grant a request for 1) a 9" variance from the minimum 5' side setback to allow a structure with overhang and gutters to be 4' 3" from the side property line and 2) a 1' 10" variance from the minimum 5' rear setback requirement to allow a structure with overhang and gutters to be 3' 2" from the rear property line., situated at 301 South Monumental, applicant being Aviad Peretz, 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 because*

the variance request is to allow a structure with overhang and gutters to be 4' 3" from the side property line and 2.) a variance to allow a structure with overhang and gutters to be 3' 2" from the rear property line.

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

it would result in the structure having to be moved to meet the minimum 5' side and rear setback requirement. This would decrease the square footage of the structure and would not allow for adequate space.

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

a 9" variance from the 5' minimum side setback requirement and a 1' 10" variance from the 5" minimum rear setback requirement will observe the spirit of the ordinance 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*

as the property is zoned "RM-4" and the use of the property is a single-family dwelling.

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 because*

the structure will maintain a 4'3" setback from the side property line and 3' 2" from the rear property line, respectively. This will not alter the essential character of the district as there are similar accessory structures in the area with similar 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.

It appears the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property. The existing structure cannot be developed with the existing setback requirements as there is insufficient space. The variance request is not merely financial.

Second: Manna

In Favor: Spielman, Menchaca, Kaplan, Cruz, Teel, Manna, Oroian, Bragman, Ozuna, and Zuniga

Opposed: Albert

Motion passes.

Item #15 **BOA-22-10300144:** A request by Audrey Trinidad for a request for a 3' special exception from the 5' maximum fence height requirement to allow an 8' fence along the front property line, located at 1039 West Hildebrand Avenue. Staff recommends Approval. (Council District 1) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 26 notices were mailed to property owners within 200 feet, 0 returned in favor, 3 returned in opposition, and no response from Beacon Hill Area and Central Los Angeles Heights Neighborhood Associations.

Rafael Trinidad, applicant- stated it's a crime and trauma scene cleaning company.

Linda Garcia, applicant's sister and worker- stated they had contact with Kayla and also that the fence is also for security.

No Public Comment

Commissioner Ozuna left the meeting at 5:10P.M.

Commissioner Kaplan left the meeting at 5:15 P.M. and returned at 5:16 P.M.

Chair Oroian asked for a motion for **BOA-22-10300144**

Bragman made a **Motion** for **BOA-22-10300144** for approval.

Regarding Case No. BOA-22-10300144, I move that the Board of Adjustment grant a request for a request for a 3' special exception from the 5' maximum fence height requirement to allow an 8' fence along the front property line., situated at 1039 West Hildebrand Avenue, applicant being Audrey Trinidad, 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 fence being requested in an 8' wood fence along the front of the property lines. 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 commercial property owners' privacy and security while still promoting a sense of community. An 8' tall fence along the front portion of the yard does not pose any adverse effects to the public welfare.

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

The fence will create enhanced privacy for the subject property on front yard 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 fence height for front yard will not alter the essential character of the district. The request for additional fence height is due to privacy and security because of the high volume of traffic along West Hildebrand Avenue.

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 commercial uses. The requested special exception will not weaken the general purpose of the district.

Second: Oroian

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

Opposed: Spielman, Manna

Abstained: Zuniga

Motion fails.

Item #16 Discussion and consideration of adding Board of Adjustment meeting dates to address backlog.

October 24, November 28 and 29, and December 12 are three dates being considered.

14 to 15 cases will be added to each meeting day to help catch up.

Chair Oroian asked for a motion for item #16

Bragman made a **motion** for approval of the three additional dates

Second: Kaplan

Everyone voted aye

Motion passes.

Item #17 Approval of Minutes

Chair Oroian asked for a motion for the minutes from August 15, 2022.

Kaplan made a **motion** for approval of the minutes

Second: Bragman

Everyone voted aye

Adjournment

There being no further business the meeting was adjourned at 5:48 P.M.

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary