

City of San Antonio

**DRAFT**

Board of Adjustment Minutes
Development and Business Services Center
1901 South Alamo

October 3, 2022

1:01 PM

1901 S. Alamo

1:01 P.M. - Call to Order**- Roll Call**

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

2 Translators from SeproTec were **not** present to assist with translating.

Briefing and Possible Action on the following items

- Item #1** **(POSTPONED) BOA-22-10300132:** A request by Gerado Urteaga for a request for a special exemption from the Beacon Hill Neighborhood Conservation District maximum 4' predominantly open fence design standards to allow a predominantly open fence to be 5', located at 1136 West French Place. (Council District 1) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

The meeting went into recess at 1:08 due to technical difficulties and returned at 1:13.

- Item #2** **BOA-22-10300107:** A request by Diego Mancilla for a request for a 3' side setback variance from the minimum 5' side setback to allow a new addition to an existing structure to be 2' from the side property line, located at 1324 West Mistletoe. Staff recommends Approval. (Council District 1) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 19 notices were mailed to property owners within 200 feet, 0 returned in favor, 1 returned in opposition, and there was no response from the Keystone Neighborhood Association and Jefferson Neighborhood Association.

Diego Mancilla, applicant, - stated he's building the addition because he has four children

No Public Comment

Chair Oroian asked for a motion for **BOA-22-10300107**

Teel made a **motion** for **BOA-22-10300107** for approval.

Regarding Case No. BOA-22-10300107 I move that the Board of Adjustment grant a request for a 3' variance from the 5' minimum side setback requirement to allow structure with overhang to be 2' from the side property line, situated at 1324 West Mistletoe, applicant being Diego Mancilla, 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 2' overhang from the side property line. The structure is existing and appears to provide adequate space along 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 from the side property line. The unnecessary hardship is due to the shape of the lot.

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

the requested variance for the home addition 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-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

the new addition does not appear to alter the essential character of the district as the addition matches the surrounding areas appearance.

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 variance is sought is due to unique circumstances existing on the property such as the shape of the lot. The requested variance will not weaken the general purpose of the district.

Second: Cruz

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

In Opposition: None

Motion passes.

Item #3

BOA-22-10300121: A request by Leonard Escobar for a request for a 2' special exception from the maximum 6' fence height to allow a solid screened fence to be 8' tall along the side property line, located at 2225 Santa Anna. Staff recommends Denial. (Council District 1) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department

Staff stated 32 notices were mailed to property owners within 200 feet, 2 returned in favor, 0 returned in opposition, and there was no response from the Los Angeles Heights Neighborhood Association.

Lenard Escobar, applicant, - stated he wanted to pull a permit for a 6 foot picket fence, due to covid supply chain back orders, the 6' pickets were out of stock and only 8' were available so he wants an 8' picket fence.

No Public Comment

Chair Oroian asked for a motion for **BOA-22-10300121**

Teel made a **motion** for **BOA-22-10300121** for approval.

Regarding Case No. **BOA-22-10300121**, I move that the Board of Adjustment grant a request for a request for a 2' special exception from the maximum 6' fence height to allow a solid screened fence to be 8' tall along the North East side property line, situated at 2225 Santa Anna, applicant being Leonard Escobar, 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 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.

2. 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.

3. 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.

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

The additional height for the section of side yard fence will not alter the essential character of the district.

5. 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: Kaplan

Manna requested a friendly amendment for the 8' fence to be solely on the North East side lot line Teel and Kaplan accepted the friendly amendment

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

In Opposition: Speilman

Motion passes.

- Item #4** **BOA-22-10300124:** A request by Juanita Romero for 1) a 2' 9" special exception from the 5' maximum height requirement to allow a 7' 9" wrought iron fence along the front property line, 2) a 1' 9" special exception from the 6' maximum height requirement to allow a 7' 9" wrought iron fence along the side property line, 3) and a 9' 10½" from the 15' minimum clear vision requirement to allow a wrought iron fence to be 5' 1 ½" from the curb, located at 1427 West Lullwood Avenue. Staff recommends Denial. (Council District 1) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 40 notices were mailed to property owners within 200 feet, 0 returned in favor, 1 returned in opposition, and there was no response from Keystone Neighborhood Association nor Los Angeles Heights Neighborhood Association.

Juanita Romero, applicant, - stated the fence is for safety.

Public Comment:

Voicemail: Gloria Baltizar- in favor

Chair Oroian asked for a motion for **BOA-22-10300124**

Ozuna made a **motion** for **BOA-22-10300124** for approval.

Regarding Case No. BOA-22-10300124, I move that the Board of Adjustment grant a request for a 9' 10½" from the 15' minimum clear vision requirement to allow a wrought iron fence to be 5' 1 ½" from the curb, situated at 1427 West Lullwood Avenue, applicant being Juanita Romero, 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 fence to be 7'-9" from the front and side property lines. In addition, the fence would be limited to a clear vision of 5'-1 1/2" and is predominantly open.

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

it would result in the fence having to be reduced in height to meet the maximum 5' height requirement along the front property line and the maximum 6' height along the side of the property line for a predominately open fence with gate and the 15' clear vision requirement. The fence would also need to move to meet the 15' clear vision requirement. The unnecessary hardship is due to the size of the lot and limited spacing in the front yard.

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

the fence will also assist with adding additional security to the property and surrounding area. The 5' 1 ½" to the clear vision requirement of 15' observes the spirit of the ordinance as the fence is predominately open and the gate is on a rolling track and will not further impede into the clear vision field.

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 request for a 5’ 1 1/2” variance to the clear vision field will not injure adjacent properties or alter the essential character of the district. The fence line is consistent with others in the immediate 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 size of the lot. The variance request is not merely financial.

Second: Kaplan

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

Opposed: Lynde, Menchaca, Spielman, and Kaplan

Motion fails.

Kaplan motioned to move the fence back 5’.

Second: Oroian

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

Opposed: None

Motion passes.

Chair Oroian asked for a **motion** on the special exemption for **BOA-22-10300124**.

Ozuna made a **motion** for the special exemption for **BOA-22-10300124** for approval.

Regarding Case No. **BOA-22-10300124**, I move that the Board of Adjustment grant a request for 1) a 2’ 9” special exception from the 5’ maximum height requirement to allow a 7’ 9” wrought iron gate along the front property line and 2) a 1’ special exception from the 5’ maximum height requirement to allow a 6’ wrought iron fence along the remainder front property line, situated at 1427 West Lullwood Avenue, applicant being Juanita Romero, 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 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. If granted, staff finds the request would be in harmony with the spirit and purpose of the ordinance.

2. 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.

3. 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.

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

The additional height for the section of side yard fence will not alter the essential character of the district.

5. 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: Kaplan

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

Opposed: Albert, Manna, and Spielman

Motion fails.

Chair Oroian asked for a motion to reconsider

Manna so moved and Chair Oroian seconded the motion.

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

Opposed: Spielman

Motion passes.

Manna made a **motion** for the special exemption for **BOA-22-10300124** for approval. Regarding Case No. **BOA-22-10300124**, I move that the Board of Adjustment grant a request for 1) a 2' 9" special exception from the 5' maximum height requirement to allow a 7' 9" wrought iron gate **and support posts** along the front property line and 2) a 1' special exception from the 5' maximum height requirement to allow a 6' wrought iron fence along the remainder front property line, situated at 1427 West Lullwood Avenue, applicant being Juanita Romero, 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.

Previous findings referenced.

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

Opposed: Spielman

Motion passes.

Item #5 **BOA-22-10300135**: A request by Jose Madrigal for a 1,000 square foot variance from the minimum 6,000 square foot lot size requirement to allow a lot size of 5,000 square feet, located at 8722 Big Creek Drive. Staff recommends Approval. (Council District 4) (Rebecca Rodriguez, Senior Planner, (210) 207-0120, Rebecca.Rodriguez@sanantonio.gov, Development Services Department)

Staff stated 37 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and there was no response from the Southwest Community Association.

Jose Madrigal, applicant, -stated he bought the property a year ago with the intention to develop it into a single-family home.

No Public Comment

Chair Oroian asked for a motion for **BOA-22-10300135**

Bragman made a **motion** for **BOA-22-10300135** for approval.

Regarding Case No. **BOA-22-10300135**, I move that the Board of Adjustment grant a request for a 1,000 square foot variance from the minimum 6,000 square foot lot size requirement to allow a lot size of 5,000 square feet, situated at 8722 Big Creek Drive, applicant being Jose Madrigal, 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*

it will allow the construction of a single-family residence on a lot that does not meet the minimum square footage requirement.

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

it would result in the inability to develop on the property

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 the construction of a new single-family residence and will meet all other development standards including setbacks.

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

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*

adjacent properties also do not meet the minimum square footage requirements.

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 property has been in the same configuration since it was platted. The property was given a zoning designation when annexed into the City, that did not match the square footage of the property.

Second: Kaplan

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

Opposed: None

Motion passes.

- Item #6** **BOA-22-10300136:** A request by Jessica Aldana for 1) a 3’ variance from the 5' minimum side setback requirement to allow an attached carport with overhang and gutters to be 2’ from the side property line, 2) a 9’8” variance from the minimum 10’ front setback requirement to allow an attached carport with an overhang to be 4” from the front property line, 3) a 4’11” variance from the 5’

minimum side setback requirement to allow an attached structure to be 1” from the side property line, located at 139 Burke Avenue. Staff recommends Approval for the Carport Side and Front Setback variance. Staff recommends Denial for the Structure Side Setback variance. (Council District 5) (Joseph Leos, Planner, (210) 207-3074, joseph.leos@sanantonio.gov, Development Services Department)

Staff stated 32 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 Neighborhood Association.

Jessica Aldana, applicant, - stated they want to build a carport to protect their cars.

No Public Comment

Chair Oroian asked for a motion for **BOA-22-10300136**

Teel made a **motion** for **BOA-22-10300136** for approval.

Regarding Case No. **BOA-22-10300136**, I move that the Board of Adjustment grant a request for 1) a 3’ variance from the 5’ minimum side setback requirement to allow an attached carport with overhang and gutters to be 2’ from the side property line, 2) a 9’8” variance from the minimum 10’ front setback requirement to allow an attached carport with an overhang to be 4” from the front property line, situated at 139 Burke Avenue, applicant being Jessica Aldana, 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*

it will allow the construction of a carport and side shade structure to be 1” and 2’ from the side property line and 4” from 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 applicant having to maintain 5’ to the side and 10’ to the front. Staff finds an unnecessary hardship due to the size of the lot and placement of the residence resulting in not being able build a practical carport and attached shade structure.

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 the construction of an attached carport and a side shade structure. Both structures will have adequate spacing from the neighboring property and will meet all other development standards including rear setbacks.

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

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*

numerous carports made of similar materials and size were observed in the surrounding area, therefore, the proposed carport does not appear to alter the character of the neighborhood. Staff finds that the requested variance for the attached shade structure would not alter the essential character of the district.

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

The subject property is narrow, and the circumstances do not appear to be merely financial.

Second: Manna

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

Opposed: None

Motion passes.

Chair Oroian asked for a motion on item 3

Teel made a **motion** for item 3 for approval.

Regarding Case No. BOA-22-10300136, I move that the Board of Adjustment grant a request for a 2’ variance from the 5’ minimum side setback requirement to allow an attached structure with gutters to be 3’** from the side property line situated at 139 Burke Avenue, applicant being Jessica Aldana, 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 side shade structure will be 2’ from the side property line.

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

Staff finds an unnecessary hardship due to the size of the lot and placement of the residence resulting in not being able build a practical attached shade structure.

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 the construction of a side shade structure. The structure will have adequate spacing from the neighboring property and will meet all

other development standards including rear setbacks.

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

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*

Staff finds that the requested variance for the attached shade structure would not alter the essential character of the district.

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

The subject property is narrow, and the circumstances do not appear to be merely financial.

Teel clarified his motion for the side shade structure to include gutters.

Second: Manna

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

Opposed: None

Motion passes.

The meeting went into recess at 2:51 and returned at 3:03 and Commissioner Cruz left the meeting and Alternate Vasquez replaced her.

Item #7 **BOA-22-10300137:** A request by Ruben Ortega for 1) a 4’4” variance from the 5’ minimum side setback requirement to allow an attached carport with overhang and gutters to be 8” from the side property line, 2) a 7’ variance from the minimum 10’ front setback requirement to allow an attached

carport with an overhang to be 3' from the front property line, 3) a 9" variance from the 5' minimum side setback requirement to allow an attached carport with overhang and gutters to be 4'3" from the side property line, located at 5930 Magnes Lane. Staff recommends Denial. (Council District 6) (Joseph Leos, Planner, (210) 207-3074, joseph.leos@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 was no response from the Cable Westwood Neighborhood Association.

Ruben Ortega Jr., applicant,- stated the carport was built as early as 2007. He also brought a petition of neighbors in support.

No Public Comment

Chair Oroian asked for a motion for **BOA-22-10300137**

Manna made a **motion** for **BOA-22-10300137** for approval.

Regarding Case No. **BOA-22-10300137**, I move that the Board of Adjustment grant a request for 1) a 4'4" variance from the 5' minimum side setback requirement to allow an attached carport with overhang and gutters to be 8" from the side property line, 2) a 7' variance from the minimum 10' front setback requirement to allow an attached carport with an overhang to be 3' from the front property line, 3) a 4'2" variance from the 5' minimum side setback requirement to allow an attached carport with overhang and gutters to be 10" from the side property line, situated at 5930 Magnes Lane, applicant being Ruben Ortega, 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 not result in an unnecessary hardship.

Specifically, we find that:

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

it will allow the existing carport to be 8" and 10" from the side property line and 3" from 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 applicant having to alter the carport to be 10' and 5' away from the front and side property lines or removing the structure entirely.

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 the carport to be 8" and 4'3" from the side property

lines and 3” from the front property line while still providing ample spacing between the structure and neighboring property.

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*

adjacent properties also have carports and 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.*

The applicant is requesting the variances due to unique circumstances such as a unique health condition and slippery driveway due to slanted land on the property.

Second: Kaplan

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

Opposed: None

Motion passes.

Item #8

BOA-22-10300141: A request by One Stop Contractors & Consult for a 2' 2" variance from the 5' 0" minimum side setback requirement to allow an existing detached structure to be 2' 10" from the side property line, located at 2154 Steves Avenue. Staff recommends Approval. (Council District 4) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 33 notices were mailed to property owners within 200 feet, 2 returned in favor, 2 (1 outside of 200') returned in opposition, and there was no response from the Dignowity Hill Neighborhood Association.

Luis Lopez, consultant, - stated they are fixing an existing structure.

Public Comment:

Voicemail: Rachel Givinchy, 2158 Diaz Avenue, - in opposition.

Chair Oroian asked for a motion for **BOA-22-10300141**

Bragman made a **motion** for **BOA-22-10300141** for approval.

Regarding Case No. BOA-22-10300141, I move that the Board of Adjustment grant a request for a 2'-2" variance from the 5'-0" minimum side setback requirement to allow an existing detached structure to be 2'-10" from the side property line, situated at 2154 Steves Avenue, applicant being Luis Lopez, 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 applicant is requesting a 2'-2" variance from the minimum 5' side setback requirement to allow an existing detached structure to be 2'-10" from the property line is not contrary to the public interest.

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

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

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

the requested variance is to allow a structure to be closer to the side property line. Due to 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*

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*

there are other structures in the immediate area, therefore the request does 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 existing detached structure on the lot. The variance request is not merely financial.

Second: Teel

In Favor: Vasquez, Lynde, Menchaca, Albert, Spielman, Teel, Bragman, and Oroian

Opposed: Manna, Kaplan, and Ozuna

Motion fails.

Manna made a **motion** to reconsider the motion

Second: Kaplan

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

In Opposition: None

Motion passes.

Chair Oroian reopened the public hearing at which time the applicant amended their application to include gutters.

Chair Oroian closed the public hearing.

Manna made a **motion** for **BOA-22-10300141** for approval referencing the previously read motion and finding to be the same but to include gutters.

Second: Ozuna

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

Motion passes.

Item #9 **BOA-22-10300142:** A request by Eduardo Garcia for 1) a 1' 10" variance from the 5' 0" minimum side setback requirement to allow a detached structure to be 3' 2" from the side property line, 2) and a 1' 6" variance from the 5' minimum rear setback requirement to allow a detached structure to be 3' 6" from the rear property line, located at 725 East Woodlawn. Staff recommends Approval. (Council District 1) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 37 notices were mailed to property owners within 200 feet, 1 returned in favor, 1 returned in opposition, and there was no response from the River Road Neighborhood Association.

Hillary Saunders, property owner, stated the existing garage is to be converted to an office and yoga studio.

No Public Comment

Chair Oroian asked for a motion for **BOA-22-10300142**

Teel made a **motion** for **BOA-22-10300142** for approval.

Regarding Case No. BOA-22-10300142, I move that the Board of Adjustment grant a request for 1). a 1'-10" variance from the 5'-0" minimum side setback requirement to allow a detached structure to be 3'-2" from the side property line, and 2). a 1' 6" variance from the 5' minimum rear setback requirement to allow a detached structure to be 3' 6" from the rear property line, situated at 725 East Woodlawn, applicant being Eduardo 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:

1. *The variance is not contrary to the public interest because*
the applicant has requested a variance to allow a detached structure to be 3'-2" from the side property line and a variance to allow a detached structure to be 3'-6" from the rear side property line, which would not be contrary to the public interest.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship because*

would result in the detached structure having to be moved to maintain a 5' side setback from the side property line and 5' setback from the rear property line. This would result in an unnecessary hardship is due to structure being existing.

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

the requested variance is to allow a structure to be closer to the side and rear property lines. Due to 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*

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*

there are other similar structures in the immediate area, therefore the request does not

alter the essential character of the district.

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

Staff finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property. The existing structure will be required to meet the minimum side and rear setback requirements. The variance request is not merely financial.

Second: Kaplan

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

Opposed: None

Motion passes.

Item #10

BOA-22-10300183: A request by Habitat for Humanity of San Antonio for 1) a 250 square foot variance from the minimum 4,000 square foot lot size requirement to allow a lot size of 3,750 square feet and 2) a 9' variance from the minimum 20' rear setback requirement to allow a single-family residence to be 11' from the rear property line, located at 1538 Santiago Street. Staff recommends Approval. (Council District 5) (Rebecca Rodriguez, Senior Planner, (210) 207-0120, Rebecca.Rodriguez@sanantonio.gov, Development Services Department)

Staff stated 62 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 Neighborhood Association nor the Historic Westside Residents Association.

Michael Taylor, Habitat for Humanity Representative, - stated they want to build a single family home for a first time buyer.

No Public Comment

Chair Oroian asked for a motion for **BOA-22-10300183**

Ozuna made a **Motion** for **BOA-22-10300183** for approval.

Regarding Case No. BOA-22-10300183, I move that the Board of Adjustment grant a request for 1) a 250 square foot variance from the minimum 4,000 square foot lot size requirement to allow a lot size of 3,750 square feet and 2) a 9' variance from the minimum 20' rear setback requirement to allow a single-family residence to be 11' from the rear property line, situated at 1538 Santiago, applicant being Habitat for Humanity of San Antonio, 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*

it will allow the construction of a single-family residence on a lot that does not meet the minimum square footage requirement. Additionally, having a 11' setback to the rear is maintaining adequate spacing between the adjacent property.

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

it would result in the inability to develop on the property and a significantly reduced footprint of the proposed residence.

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 the construction of a new single-family residence and ability to develop a sizable residence with a rear setback reduction while still providing ample spacing between the structure and the rear property line.

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 property is located within the original 36 square miles of San Antonio where smaller lots are commonly found. Adjacent properties were observed to also have reduced 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.*

Due to the current configuration of the lot, it cannot maintain the minimum lot size requirement. The setback reduction to the rear would help accommodate a reasonable sized residence on the lot.

Second: Bragman

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

Opposed: None

Motion passes.

Item #11 **POSTPONED BOA-22-10300184**: A request by Habitat for Humanity for 1) a 250 square foot variance from the minimum 4,000 square foot lot size requirement to allow a lot size of 3750 square feet and 2) a 9' variance from the minimum 20' rear setback requirement to allow a single-family residence to be 11' from the rear property line, located at 1712 San Patricio. Staff recommends Approval. (Council District 5) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Item #12 **BOA-22-10300195**: A request by Claymoore Engineering for 1) a 10' landscape buffer variance from the 15' landscape buffer to allow a 5' landscape buffer along the street frontages, 2) a 29' landscape buffer variance from the 30' landscape buffer to allow a 1' landscape buffer along the northern property line, 3) and a 25' landscape buffer variance from the 30' landscape buffer to allow a 5' landscape buffer along the eastern property line, located at 6202 North IH-35. Staff recommends Denial with an Alternate

Recommendation. (Council District 2) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 8 notices were mailed to property owners within 200 feet, 1 returned in favor, 0 returned in opposition, and there is no registered neighborhood association.

Strald Arthur, representative, - stated they are proposing a seven-brew coffee stand which is a drive thru.

No Public Comment

Chair Oroian asked for a motion for **BOA-22-10300195**

Manna made a **motion** for **BOA-22-10300195** for approval.

Regarding Case No. **BOA-22-10300195**, I move that the Board of Adjustment grant a request for 1) a 7.5' landscape buffer variance from the 15' landscape buffer to allow a 7.5' landscape buffer along the street frontage, 2) a 29' landscape buffer variance from the 30' landscape buffer to allow a 1' landscape buffer along the northern property line. 3) and a 25' landscape buffer variance from the 30' landscape buffer to allow a 7'5" landscape buffer along the eastern property line, situated at 6202 N IH 35, applicant being Claymoore Engineering, 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 applicant is requesting to allow landscape buffers on the street frontages, the northern property line and the eastern property line to be reduced to less than the minimum requirements.

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

it would result in having to meet the landscape buffer requirements along the street frontages, northern property line, and the eastern property line. The subject property currently has an existing structure situated close to the street and side property line.

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

the requested variance is to allow reduced landscape buffers to the less than the minimum to be closer to the street frontages, northern property line and eastern property line. Due to 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*

as the property is zoned “C-2” 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 property will be subject to maintain a 5’ landscape buffer along the street frontages, 1’ along the northern property line and 5’ along the eastern property line which will not substantially injure the adjacent neighboring properties.

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

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 location of the lot which contains an existing building. The variance request is not merely financial.

Second: Kaplan

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

Opposed: None

Motion passes.

Item #13 Approval of Minutes

Chair Oroian asked for a motion for the minutes from September 19, 2022.

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

Second: Manna

Everyone voted aye

Adjournment

There being no further business the meeting was adjourned at 4:22 P.M.

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary
