

City of San Antonio



Board of Adjustment Minutes

Development and Business Services Center
1901 South Alamo

October 17, 2022

1:00PM

1901 S. Alamo

1:01 P.M. - Call to Order

- Roll Call

Present: Spielman, Albert, Menchaca, Cruz, Manna, Kaplan, Vasquez, Ingalls, Zuniga, Teel, and Oroian

- **Absent:** Ozuna, Bragman

2 Translators from SeproTec were present to assist with translating.

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

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

Item #1 **(POSTPONED) BOA-22-10300146**

Item #2 **(POSTPONED) BOA-22-10300153**

Item #3 **(POSTPONED) BOA-22-10300167**

Commissioner Zuniga entered the boardroom at 1:02 P.M..

Item #4 **BOA-22-10300132:** A request by Gerado Urteaga for a 1' variance from the Beacon Hill Neighborhood Conservation District maximum 4' predominantly open fence design standards to allow a predominantly open fence to be 5' in the front yard, located at 1136 West French Place. Staff recommends Denial. (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, 2 returned in favor, 0 returned in opposition, and the Beacon Hill Neighborhood Association is opposed.

Gerardo Urteaga, applicant, - stated they designed a fence, and it came out taller than expected.

Public Comment:

Voicemail: Daniel President of Beacon Hill Association - in opposition

Chair Oroian asked for a motion for item **BOA-22-10300132** as presented.

Teel made a **motion** for item **BOA-22-10300132** for approval.

Regarding Case No. BOA-22-10300132, I move that the Board of Adjustment grant a request for a 1' variance from the Beacon Hill Neighborhood Conservation District maximum 4' predominantly open fence design standards to allow a predominantly open fence to be 5' in the front yard, situated at 1136 West French Place, applicant being Gerardo Urteaga, 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 Beacon Hill NCD front yard fence standards was adopted to maintain the character of the area. The variance to the NCD standards is for the front yard fence and is not contrary to the public interest and the surrounding neighbors.

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

It would result for the fence to conform to the 4' maximum height requirement and a possible demolition of the fence. This presents an unnecessary hardship.

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

By granting the variance the spirit of the ordinance will be observed as there are similar style fences in the 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.

This fence is not likely to negatively affect the adjacent neighboring property as the fence neighbors a local street with similar fences.

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 style of the fence is very similar to the surrounding area and the district that the property is located in. The variance request is not merely financial.

Second: **Kaplan**

Teel withdrew his motion

Teel made a motion for a continuance to November 21.

Second: **Cruz**

In Favor: **Albert, Menchaca, Cruz, Manna, Kaplan, Ingalls, Vasquez, Zuniga, Teel, Oroian**

Opposed: **Spielman**

Motion approved for continuance to November 21.

Item #5 **BOA-22-10300143**: A request by Philip Levin for a request for a 3' variance with a 1' overhang from the 5' minimum side setback to allow a structure to be 2' from the side property line, located at 215 Kipling Avenue. Staff recommends Approval. (Council District 3) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 29 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and there was no response from the Highland Hills nor Highland park Neighborhood Associations.

Sheila Levin, applicant, - stated they applied for a permit and then were told they needed a variance and that they have been waiting six months for this hearing.

No Public Comment

Chair Oroian asked for a motion for item **BOA-22-10300143** as presented.

Teel made a **motion** for item **BOA-22-10300143** for approval.

Regarding Case No. BOA-22-10300143, I move that the Board of Adjustment grant a request for a 3' variance with a 1' overhang from the 5' minimum side setback to allow a structure to be 2' from the side property line, situated at 215 Kipling Avenue, applicant being Philip Levin, 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 requested variance is not contrary to the public interest as there are other similar structures in the rear yards with similar setbacks.

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

This would result in the applicant having to conform to the minimum 5' side setback requirements which would result in an unnecessary hardship.

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

The variance for rear structure 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.*

The applicants requested variance 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.*

The variances 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, Cruz, Manna, Kaplan, Ingalls, Vasquez, Zuniga, Teel, Oroian**

Opposed: **None**

Motion approved.

Item #6

BOA-22-10300145: A request by William Cummings 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 8506 Timber Place. Staff recommends Denial. (Council District 6) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 32 notices were sent out, 5 returned in favor, 16 returned in opposition from a signed petition, and there was no response from the Great Northwest Community Improvement Association/ However they emailed in favor.

William Cummings, applicant, - stated he wanted the fence for privacy from the back neighbor's cameras.

Public Comment:

Martha Romo, - in opposition

Maria Romo, - in opposition and gave her time to Martha Romo

Velia Macias, - in opposition and gave her time to Martha Romo

Richard Macias, - in opposition

Chair Oroian asked for a motion for item **BOA-22-10300145** as presented.

Teel made a **motion** for item **BOA-22-10300145** for approval.

Regarding Case No. **BOA-22-10300145**, I move that the Board of Adjustment grant 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, situated at 8506 Timber Place, applicant being William Cummings, 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. The fence is located along the side property line and is exceeding the maximum height requirement by 2'. The fence is completely solid-screened which still serves the public welfare and convenience.

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: **Manna**

In Favor: **Albert, Manna, Ingalls, Teel, and Oroian**

Opposed: **Spielman, Menchaca, Cruz, Vasquez, Zuniga, and Kaplan**

Motion failed 5-6.

Item #7

BOA-22-10300147: A request by Tas Projects, LLC for 1) a request for a 51' variance from the 20' front setback maximum to allow a structure to be 71' from the front property line, and 2) a variance from the fence materials to allow for a corrugated metal fence along the rear property line, located at 122 Poppy Street. Staff recommends Approval. (Council District 2) (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, 0 returned in opposition, and the Denver Heights Neighborhood Association is in favor.

Dario Bucheli, representative- stated they plan to build units on an irregular sized lot.

Public Comment:

Erik Duxstad, - in favor
Raul Ortiz, - in opposition

Chair Oroian asked for a motion for item **BOA-22-10300147**, as presented.

Cruz made a **motion** for **BOA-22-10300147** for approval.

Regarding Case No. **BOA-22-10300147**, I move that the Board of Adjustment grant a request for 1) A request for a 51' variance from the 20' front setback maximum to allow a structure to be 71' from the front property line, and 2) a variance from the fence materials allow for a corrugated metal fence along the rear property line, situated at 122 Poppy Street, applicant being Tas Projects, 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 requested variances to allow the proposed multi-family development to have a front setback of 51' and a corrugated metal fence alone the rear property line. The structure would be situated a reasonable distance from Poppy Street, and the metal fence is not easily seen from the right of way. The request does not appear to be contrary to the public interest.

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

The proposed development would have to maintain the maximum setback permitted of 20' and removal of the metal fence would result in unnecessary hardship.

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

A 51' setback will observe the spirit of the ordinance, as there is no minimum front setback requirement. Additionally, the metal fence is not easily seen.

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 similar properties located along Poppy Street that maintain an extended distance and some properties in the area have similar style fences, therefore the request would not 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.*

The variances 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: **Manna**

In Favor: **Spielman, Albert, Menchaca, Cruz, Manna, Kaplan, Ingalls, Vasquez, Zuniga, Teel, Oroian**

Opposed: **None**

Motion passes.

Item #8

BOA-22-10300148: A request by Marc Nourani for a 2' special exception from the maximum 6' fence height to allow a solid screened fence to be 8' tall along the side and rear property lines, located at 535 Mission Viejo. Staff recommends Approval. (Council District 9) (Rebecca Rodriguez, Senior Planner, (210) 207-0120, Rebecca.Rodriguez@sanantonio.gov, Development Services Department)

Staff stated 29 notices were mailed to property owners within 200 feet, 1 returned in favor, 1 returned in opposition, and no response from the Hidden Forest Homeowners Association and the Mission Ridge Home Owners Association (unregistered) is opposed.

Marc Nourani, applicant, - stated they filed for an exception after the HOA stated they needed one.

No Public Comment

Chair Oroian asked for a motion for item **BOA-22-10300148**, as presented.

Manna made a **motion** for **BOA-22-10300148** for approval.

Regarding Case No. BOA-22-10300148, I move that the Board of Adjustment grant a 2' special exception from the maximum 6' fence height to allow a solid screened fence to be 8' tall regardless of slope along the side and rear property lines, situated at 535 Mission Viejo, applicant being Marc Nourani, 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 because*

the proposed solid screened fence is only located along the side and rear yard behind the front façade of the residence.

2. *The public welfare and convenience will be substantially served because*

there are notable elevation changes observed in the area including on the subject property.

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

the 8' fence would provide additional privacy for not only the subject property but the adjacent properties that also have elevation changes.

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 because*

the fence is made of wood which is a permitted construction material. In addition, the fence is not easily visible from the Right-Of-Way.

5. *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.

Manna amended to add the front façade will not exceed 6'.

Second: Kaplan

In Favor: Spielman, Albert, Menchaca, Cruz, Manna, Kaplan, Ingalls, Vasquez, Zuniga, Teel, Oroian

Opposed: None

Motion approved.

The meeting went into recess at 2:55 and returned at 3:08.

Item #9

BOA-22-10300149: A request by Julio Rodriguez for a 2' special exception from the maximum 6' fence height to allow a solid screened fence to be 8' tall along the side and rear property lines, located at 202 Greenlawn. Staff recommends Approval. (Council District 1) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov,

Development Services Department)

Staff stated 35 notices were mailed to property owners within 200 feet, 1 returned in favor, 0 returned in opposition, and no response from the Los Angeles Heights Neighborhood Association.

Julio Rodriguez, applicant, - stated they were told because the plan is to eventually replace the entire fence, they would need an exemption. The fence is needed for privacy and safety due to their pool.

No Public Comment

Chair Oroian asked for a motion for item **BOA-22-10300149** as presented

Teel made a **motion** for **BOA-22-10300149**

Regarding Case No. BOA-22-10300149, I move that the Board of Adjustment grant 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 and rear property line, situated at 202 Greenlawn Drive, applicant being Julio Rodriguez, 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 because*

the UDC states the Board of Adjustment can grant a special exception for a fence height modification. The fence being requested is an 8' wood fence along the side and rear of the property lines. 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 because*

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

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

the fence will create enhanced privacy for the subject property on the side and rear yard 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 because

the request for additional fence height is due to privacy because of a swimming pool in the rear yard.

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

the granting of this special exception will not weaken the purposes of the residential zoning district.

Second: **Manna**

In Favor: **Spielman, Albert, Menchaca, Cruz, Manna, Kaplan, Ingalls, Vasquez, Zuniga, Teel, Oroian**

Opposed: None

Motion approved.

Commissioner Cruz stepped at out 3:13 and returned at 3:14.

Item #10 **BOA-22-10300152**: A request by Dorfirio Mares for 1) a 3'8" variance from the 5' front yard fence height to allow an 8'8" fence in the front yard, 2) a 2' special exception from the 6' side fence height to allow an 8' fence in the side yard, 3) a 16' variance from the 25' minimum clear vision requirement to allow a fence to be 9' from the corner curb, 4) a 9' variance from the 15' minimum clear vision requirement to allow a fence to be 6' from the front driveway, 5) a 9' variance from the 15' minimum clear vision requirements to allow a fence to be 6' from the side driveway, 6) a 9' variance from the 15' minimum clear vision requirements to allow a fence to be 6' from the western neighbor's driveway, 7) a variance from the fence materials to allow for a corrugated metal fence along the northern and western property line, located at 2103 West Wildwood. Staff recommends Denial. (Council District 1) (Joseph Leos, Planner, (210) 207-3074, Joseph.Leos@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 Los Angeles Heights in opposed.

Juan Flores, applicant, - was not present.

No Public Comment

Chair Oroian asked for a motion for item **BOA-22-10300152** as presented.

Kaplan made a **motion** for **BOA-22-10300152** for approval.

Regarding Case No. BOA-22-10300152, I move that the Board of Adjustment grant a request for 1) a 3'8" variance from the 5' front yard fence height requirement to allow an 8'8" fence in the front yard, 2) a 16' variance from the 25' minimum clear vision requirement to allow a fence to be 9' from the corner curb, 3) a 9' variance from the 15' minimum clear vision requirement to allow a fence to be 6' from the front driveway, 4) a 9' variance from the 15' minimum clear vision requirements to allow a fence to be 6' from the side driveway, 5) a 9' variance from the 15' minimum clear vision requirements to allow a fence to be 6' from the western neighbor's driveway, and 6) a variance from the fence materials to allow for a corrugated metal fence along the northern and western property line, situated at 2103 West Wildwood, applicant being Dorfirio Mares, 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 for an additionally height for a front fence will provide safety for this property and will not alter the appearance of the community. Additionally, the applicants request for a clear vision variance is not contrary to the public interest because the encroachment is solely 6' and 9' from the front and side driveway, and corner curb.

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

it would result in the front fence having to be reconstructed to meet the minimum 3' front yard fence and the 15' and 25' clear vision requirements.

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 for additional fence height and coverage for the applicant's front yard, which 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 front yard fences 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 the location of the property being situated on a corner lot.

Second: **Teel**

In Favor: **None**

Opposed: **Spielman, Albert, Menchaca, Cruz, Manna, Kaplan, Ingalls, Vasquez, Zuniga, Teel, Oroian**

Motion fails 0-11.

Chair Oroian asked for a motion for item **BOA-22-10300152** as presented.

Motion fails due to lack of motion.

Item #11 **BOA-22-10300154**: A request by Antonio Martel for 1) a 1,160 square foot variance from the minimum 4,000 square foot lot size requirement to allow a lot size of 2,840 square feet, 2) a 1' 9" variance from the minimum 5' side setback requirement to allow a structure to be 3' 3" from the side property line, 3) a 2' 5" variance from the minimum 5' side setback requirement to allow a carport to be 2' 7" from the side property line, and 4) a 12' 10" variance (with 5' credit from the alley) from the minimum 20' rear setback requirement to allow a structure to be 2'2" from the rear property line, located at 318 Utah Street. Staff recommends Approval. (Council District 2) (Rebecca Rodriguez, Senior Planner, (210) 207-0120, Rebecca.Rodriguez@sanantonio.gov, Development Services Department)

Staff mentioned 37 notices had been mailed out, 0 returned in favor, 0 returned in opposition, and the Denver Heights Neighborhood Association is opposed.

Jose Valdez, property owner, - stated they were unaware of the Neighborhood Association and plan to reach out and get them on board.

No public Comment:

Chair Oroian asked for a motion for item **BOA-22-10300154** to be continued.

Manna made a motion for a continuance to November 21st.

Second: **Zuniga**

In Favor: **Spielman, Albert, Menchaca, Cruz, Manna, Kaplan, Ingalls, Vasquez, Zuniga, Teel, Oroian**

Opposed: **None**

Motion passed for continuance to November 21st.

Item #12 **BOA-22-10300155**: A request by Dolores Castaneda for a 4' 9" variance from the 5' minimum side setback to allow a detached carport with an 8" overhang to be 3" from the side property line, located at 831 Avant Avenue. Staff recommends Denial with an Alternate Recommendation. (Council District 3) (Joseph Leos, Planner, (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department)

Staff mentioned 29 notices had been mailed out, 2 returned in favor, 1 returned in opposition, and there was no response from the Highland Park Neighborhood association.

Dolores Castaneda, applicant, - stated they were told twice they did not need a permit to move the carport.

Public Comment:

Voicemail: Robertson- in favor

The applicant amended their application to include gutters.

Chair Oroian asked for a **motion** on **BOA-22-10300155** as presented

Manna made a **motion** for **BOA-22-10300155** for approval

Regarding Case No. BOA-22-10300155, I move that the Board of Adjustment grant A request for a 4'-9" variance from the 5' minimum side setback to allow a carport with gutters to be 3" from the side property line, situated at 831 Avant Avenue, applicant being Dolores Castaneda, 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 4'-9" variance from the 5' minimum side setback to allow a carport with gutters to be 3" from the side property line is not contrary to the public interest.

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

it would result in the carport having to be moved to meet the minimum 5' side setback requirement from the side property line. Staff finds an unnecessary hardship due to the size of the lot and placement of the 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 carport to maintain the current setback. The carport will have adequate spacing from the neighboring property and will meet all other development standards including front 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-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 carports 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 the narrowness of the lot. The variance request is not merely financial.

Second: **Kaplan**

In Favor: **Spielman, Albert, Menchaca, Cruz, Manna, Kaplan, Ingalls, Vasquez, Zuniga, Teel, Oroian**

Opposed: **None**

Motion approved.

Item #13

BOA-22-10300161: A request by Steven Nanez for a Special Exception to allow one (1) additional Type 2 Short Term Rental permit on the block face, located at 603 South Mesquite Street. Staff Recommends Denial. (Council District 2) (Joshua Orton, Senior Planner, (210)-207-7945, Joshua.Orton@sanantonio.gov, Development Services Department)

Joshua Orton, planner, stated the applicant requested a continuance for November 7th.

Chair Oroian asked for a **motion** on **BOA-22-10300161** for a continuance.

Teel made a **motion** for **BOA-22-10300161** for continuance to November 7th.

Second: **Kaplan**

In Favor: **Spielman, Albert, Menchaca, Cruz, Manna, Kaplan, Ingalls, Vasquez, Zuniga, Teel, Oroian**

Opposed: **None**

Motion approved for a continuance to November 7th.

Item#14

BOA-22-10300164: A request by Lisa Reyna for a Special Exception to allow one (1) additional Type 2 Short Term Rental permit on the block face, located at 5501 Merkens. Staff Recommends Denial. (Council District 7) (Joshua Orton, Senior Planner, (210)-207-7945, Joshua.Orton@sanantonio.gov, Development Services Department)

Staff mentioned 19 notices had been mailed out, 0 returned in favor, 2 returned in opposition, and there is no registered neighborhood association.

Lisa Reyna, applicant, - stated she would be living there and renting to travel nurses.

No Public Comment

Chair Oroian asked for a **motion** on **BOA-22-10300164** as presented

Teel made a **motion** for **BOA-22-10300164** for approval.

Regarding Case No. BOA-22-10300164, I move that the Board of Adjustment grant a special exception to allow for (1) Type 2 short term rental unit, situated at 5501 Merkens, applicant being Lisa Reyna 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 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.

2. *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.

3. *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.

4. *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.

5. *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.

6. *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 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: **Manna**

In Favor: **None**

Opposed: **Spielman, Albert, Menchaca, Cruz, Manna, Kaplan, Ingalls, Vasquez, Zuniga, Teel, Oroian**

Motion fails.

Item#15

BOA-22-10300166: A request by Robert Mueller for a Special Exception to allow one (1) additional Type 2 Short Term Rental permit on the block face, located at 113 Dreiss. Staff Recommends Denial. (Council District 2) (Joshua Orton, Senior Planner, (210)-207-7945, Joshua.Orton@sanantonio.gov, Development Services Department)

Staff mentioned 32 notices had been mailed out, 0 returned in favor, 0 returned in opposition

and there was no response from the Alamodome Gardens Neighborhood Association.

Robert Mueller, applicant, - stated there is recently a huge tax burden and they would like an STR permit to help lessen that burden.

Public Comment:

Welson Orellena, in opposition

Chair Oroian asked for a **motion** on **BOA-22-10300166** as presented

Teel made a **motion** for **BOA-22-10300166** for approval.

Regarding Case No. BOA-22-10300166, I move that the Board of Adjustment grant a special exception to allow for (1) Type 2 short term rental unit, situated at 113 Dreiss, applicant being Robert Mueller 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 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.

2. *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.

3. *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.

4. *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.

5. *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.

6. *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 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: **Manna**

In Favor: **Cruz, Ingalls, Zuniga, Teel, Oroian**

Opposed: **Spielman, Albert, Menchaca, Manna, Kaplan, Vasquez**

Motion approved.

Commissioner Kaplan left the meeting at 4:24.

Item#16

BOA-22-10300178: A request by Vicky Willaughby for a 1) 2' special exception from the maximum 6' fence height to allow a solid screened fence to be 8' along the side and rear property line, and 2) a 3' special exception from the maximum 5' fence height to allow a predominantly open fence to be 8' along the front property line, located at 411 South General McMullen and 415 South General McMullen. Staff recommends Approval. (Council District 5) (Joseph Leos, Planner, (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department)

Staff mentioned 32 notices had been mailed out, 0 returned in favor, 0 returned in opposition and there was no response from the Alamodome Gardens Neighborhood Association.

David Willaughby, applicant, - stated the fence would be for added security

No Public Comment

Chair Oroian asked for a **motion** on **BOA-22-10300166** as presented

Cruz made a **motion** for **BOA-22-1030016** for approval.

Regarding Case No. **BOA-22-10300178**, I move that the Board of Adjustment a 1) 2' special exception from the maximum 6' fence height to allow a predominantly open fence to be 8' along the side and rear property line, a 2) 3' special exception from the maximum 5' fence

height to allow a predominantly open fence to 8' along the front property line, situated at 411 & 415 South General McMullen, applicant being Vickie Willaughby, 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 because*

the proposed fence being requested is predominantly open, located along the front, side, and rear property lines and does not exceed 8' in height. 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 because*

the criteria are represented by fence heights to protect commercial property owners while still promoting a sense of community. The proposed fence be requested will be located along the front, side, and rear property lines and is exceeding the maximum height requirement by 2' and 3'. The fence is predominantly open which still serves the public welfare and convenience.

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

the 8' fence would create enhanced security and privacy for the subject properties 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 because*

The fence is made of wood which is a permitted construction material. In addition, predominantly open fences bordering South General McMullen Road can be found in the surrounding area, including properties adjacent to the subject property thus it is highly unlikely that the request will 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 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: **Manna**

In Favor: **Spielman, Albert, Menchaca, Cruz, Manna, Ingalls, Vasquez, Zuniga, Teel, Oroian**

Opposed: **None**

Motion approved.

Commissioner Spielman left the boardroom at 4:37 and returned at 4:38.

Item#17

BOA-22-10300187: A request by Inline Fence & Fabrication, LLC for a request for a 1' special exception from the maximum 5' fence height to allow a predominantly open fence to be 6' along the front yard, located at 15000 IH 10 West. Staff recommends Approval. (Council District 8) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff mentioned 3 notices had been mailed out, 0 returned in favor, 0 returned in opposition and there is no registered Home Owners Association.

Garth Erickson, representative, - stated they have this property and wanted to put up a 6' fence and found out the maximum is 5' after it was up.

No Public Comment

Chair Oroian asked for a **motion** on **BOA-22-10300187** as presented

Manna made a **motion** for **BOA-22-1030087** for approval.

Regarding Case No. BOA-22-10300187, I move that the Board of Adjustment grant a request for a request for a 1' special exception from the maximum 5' fence height to allow a predominantly open fence to be 6' along the front yard., situated at 15000 IH 10 West, applicant being Inline Fence and Fabrication, 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 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 if granted 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 and still promote 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 front 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 requested special exception will not weaken the general purpose of the district as the fence is not easily seen from the right of way.

Second: **Cruz**

In Favor: **Spielman, Albert, Menchaca, Cruz, Manna, Ingalls, Vasquez, Zuniga, Teel, Oroian**

Opposed: **None**

Motion approved.

Approval of Minutes

Manna made a **motion** for Approval of the October 3, 2022 minutes.

Second: **Chair Oroian**

In Favor: **Spielman, Albert, Menchaca, Cruz, Manna, Ingalls, Vasquez, Zuniga, Teel, Oroian**

Opposed: **None**

Minutes Approved.

Adjournment

There being no further business, the meeting was adjourned at 4:57 P.M.

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary