

City of San Antonio

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

October 24, 2022

1:00PM

1901 S. Alamo

1:00 P.M. - Call to Order**- Roll Call****Present:** Albert, Menchaca, Lynde, Manna, Kaplan, Ozuna, Bragman Vasquez, Zuniga, Teel, and Oroian**- Absent:** Spielman

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-22-10300159****Item #2** **(POSTPONED) BOA-22-10300160****Item #3** **(POSTPONED) BOA-22-10300171****Item #4** **(POSTPONED) BOA-22-10300207****Commissioner Cruz entered the boardroom at 1:06 P.M..****Commissioner Vasquez leaves the panel.****Item #5** **BOA-22-10300156:** A request by Brown and Ortiz, PC for 1) a request for a 16'-7" and 2'-8" variance to the required 30' minimum rear setback and 10' minimum side setback to allow a garage to be 13'-5" from the rear property line and 7'-4" from the eastern side property line,

and 2) a request for a 10' variance from the 15' Type B buffer yard to allow the north and east side buffer yards to be 5' in width, located at 421 West North Loop Road. Staff recommends Approval (Council District 9) (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, 0 returned in favor, 0 returned in opposition, and there no registered neighborhood association.

Carolyn McDonald, representative, - stated the owner is wanting to turn the parking spaces into a garage.

No Public Comment

Chair Oroian asked for a motion for item **BOA-22-10300156** as presented.

Bragman made a **motion** for item **BOA-22-10300156** for approval.

Regarding Case No. BOA-22-10300156, I move that the Board of Adjustment grant a request for 1) A request for a 16'-7" and 2'-8" variance from the 30' minimum rear setback and 10' minimum side setback to allow a garage to be 13'-5" from the rear property line and 7'-4" from the eastern side property line. 2) A request for a 10' variance from the 15' Type B buffer yard, as described in Sec. 35-510, to allow the north and east side buffer yards to be 5' in width, situated at 421 West North Loop Road, applicant being Brown and Ortiz, PC, 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 maintain 13' 5" from the rear property line and 7' 4" from the eastern side property line and a landscape buffer width of 5' on the north and eastern side yards, 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*

of the inability to construct a garage being moved to maintain a 30' rear setback and would require landscape buffer which will not allow for a garage. This 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 as*

a 13'-5" variance from the rear property line and 7' 4" from the eastern side property line and a landscape buffer width of 5' on the north and eastern side yards will observe the spirit of the ordinance and will not adversely affect surrounding properties in the immediate area.

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

the zoning district in which the variance is located

as the property is zoned “C-2” and the use of the property is commercial.

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 garage will maintain a 13’ 5” from the rear property line and 7’-4” from the eastern side property line and allow the north and east side buffer yards to be 5’ in width, respectively. This 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.*

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.

Second: **Manna**

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

Opposed: **None**

Motion approved.

Commissioner Lynde recuses from Item 6, leaves the boardroom

Commissioner Vasquez joins panel

Item #6

BOA-22-10300157: A request by James Ramirez for 1) a request for a 4’ variance to the required 5’ side setback for a swimming pool to allow a swimming pool to have a 1’ side setback, and 2) a request for a 4’ variance to the required 5’ rear setback for an accessory structure to allow an accessory structure to have a 1’ rear setback, located at 207 Wickes Street. Staff recommends Approval (Council District 1) (Joseph Leos, Planner (210) 207-3074, joseph.leos@sanantonio.gov, Development Services Department)

Staff stated 32 notices were sent out, 1 returned in favor, 3 returned in opposition and there is no response from the King William Neighborhood Association.

James Ramirez, applicant, - stated 311 said there are no lines in the way and his electricity comes in from the front of the property.

Public Comment:

Voicemail: Jose Guadalupe Villareal, in opposition

Janet Potter, in opposition

In Person:

Thomas Houge, in opposition

Chair Oroian asked for a motion for item **BOA-22-10300157** as presented.

Ozuna made a **motion** for item **BOA-22-10300157** for approval.

Regarding Case No. **BOA-22-10300157**, I move that the Board of Adjustment grant a request for 1) a 3' variance to the required 5' side setback for a swimming pool to allow a swimming pool to have a 2' side setback, 2) a 4' variance to the required 5' rear setback for an accessory structure to allow an accessory structure to have a 1' rear setback, situated at 204 Wickes St, applicant being James Ramirez, 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 a swimming pool and an accessory structure to be 1' from the side and rear property lines are both situated in the rear yard of the property.

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

it would result in the applicant building the swimming pool and moving the accessory structure 5' from the side and rear property lines. Staff finds an unnecessary hardship due to the size of the rear yard.

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 a 4' variance from the 5' minimum side and rear setback requirement to allow a swimming pool and an accessory structure in the rear yard. This will not adversely affect surrounding properties in the immediate vicinity.

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

as the property is zoned "RM-4" and the use of the property is a duplex.

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 properties with similar lot dimensions located along Wickes Street.

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 requested variance will not weaken the general purpose of the district.

Second: **Cruz**

In Favor: **Bragman, Teel, Vasquez, and Ozuna**

Opposed: **Albert, Menchaca, Cruz, Manna, Zuniga, Kaplan, and Oroian**

Motion fails 8-3.

Commissioner Lynde rejoined the meeting.

Commissioner Zuniga left the meeting at 2:06P.M.

Item #7

BOA-22-10300158: A request by Marcelino Parra for 1) a request for a 4' variance from the minimum 5' side setback requirement to allow a carport with overhang and gutters to be 1' from the side property line, and 2) a request for a 7' variance from the minimum 15' clear vision requirement to allow a fence to be 8' from the curb, located at 1401 Kendalia Avenue. Staff recommends Denial with an Alternate Recommendation. (Council District 4) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 24 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and there was no response from the Tierra Linda Heights Neighborhood Association.

Marie Puente, representative, - stated the placement is the same distance from the fence as the prior carport that was replaced.

No Public Comment

Chair Oroian asked for a motion for item **BOA-22-10300158**, as presented.

Manna made a **motion** for **BOA-22-10300158** for approval.

Regarding Case No. **BOA-22-10300158**, I move that the Board of Adjustment grant a request for 1) a request for a 4' variance from the minimum 5' side setback requirement to allow a carport with overhang and gutters to be 1' from the side property line, and 2) a request for a 7' variance from the minimum 15' clear vision requirement to allow a predominately open fence to be 8' from the curb., situated at 1401 Kendalia Avenue, applicant being Marcelino Parra,

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 carport with overhang and gutters will maintain 1' from the side property line 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*

the carport with overhang and gutters would have to be moved to the minimum 5' side setback.

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

the side setback requirement will meet 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 properties with similar lot dimensions on the block.

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 request does not appear to be merely financial.

Second: Teel

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

Opposed: **None**

Motion passes.

Item #8

BOA-22-10300170: A request by Fernando Torres Castillo for 1) a request for a 3' special exception from the maximum 3' solid fence height to allow a solid screened fence to be 6' tall along the front yard, 2) a request for a 2' variance from the minimum 15' clear vision requirement to allow a fence to be 13' from the curb, and 3) a request for a 2' variance from the 5' minimum side property setback requirement to allow a structure to be 3' from the side property line., located at 551 Demya. Staff recommends Approval to the Special Exemption for the Fence Height. Staff recommends Denial for the Clear Vision. (Council District 4) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 20 notices were mailed to property owners within 200 feet, 6 returned in favor (from a petition), 0 returned in opposition, and no response from the Adam Hills nor Rainbow Hills Area Neighborhood Association.

Fernando Torres, applicant, interpretation services were used, - stated he wants a permit to build a 6' fence in the front.

No Public Comment

Chair Oroian asked for a motion for item **BOA-22-10300170**, as presented.

Cruz made a **motion** for **BOA-22-10300170** for approval.

Regarding Case No. BOA-22-10300170, I move that the Board of Adjustment grant a request for 1) a request for a 2' variance from the minimum 15' clear vision requirement to allow a fence to be 13' from the curb, situated at 551 Demya, applicant being Fernando Torres Castillo, 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 applicant is also requesting a variance to the Clear Vision Standards to allow a solid screened fence to be 13' from the curb along the driveway approach. As it stands the 13' will be sufficient Clear Vision.

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

The Clear Vision Standards variance would in unnecessary hardship as the applicant will to relocate a portion of the fence or reduce the height of the rear yard fence to 3' to allow for

clear visibility next to the driveway.

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

The variance to the clear vision requirements observes the spirit of the ordinance as 13' of Clear Vision Field will be sufficient for vehicles

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 variance to the Clear Vision Standards does not appear to alter the essential character of the district, if granted.

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 fence that was built by the applicant. Meeting the Clear Vision Requirement will create a financial hardship.

Second: Manna

Commissioner Manna made a friendly amendment to allow for a predominately open fence within the 15" clear vision easement which was not accepted by the maker of the motion

Commissioner Manna moved to amend the main motion to allow for a predominately open fence within the 15" clear vision easement.

Second: Kaplan

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

Opposed: Bragman, and Oroian

Amendment passes.

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

Opposed: None

Motion passes.

Chair Oroian asked for a **motion** for the variance on item **BOA-22-10300170**.

Chair Oroian made a **motion** for the variance on item **BOA-22-10300170**.

Regarding Case No. **BOA-22-10300170**, I move that the Board of Adjustment grant a request for a request for a 3' special exception from the maximum 3' solid fence height to allow a solid screened fence to be 6' tall along the front yard, situated at 551 Demya, applicant being Fernando Torres Castillo, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

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

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

In this case, these criteria are represented by fence heights to protect residential property owners while still promoting a sense of community. The fence is located along the front property and is exceeding the maximum height requirement by 3'. The fence is solid screened and would serve the public welfare and convenience.

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

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

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

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

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

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

Second: Kaplan

In Favor: Teel and Ozuna

Opposed: **Bragman, Oroian, Kaplan, Lynde, Albert, Menchaca, Vasquez, Cruz, and Manna**

Motion fails.

Item #9

BOA-22-10300172: A request by Naema Vides for a 4'-11" variance from the minimum 5' side setback to allow a detached accessory structure with overhang and gutters to be 1" from the side property line, located at 820 West French Place. Staff recommends Denial with an Alternate Recommendation. (Council District 1) (Rebecca Rodriguez, Senior Planner, 210-207-0120, Rebecca.Rodriguez@sanantonio.gov, Development Services Department)

Staff stated 38 notices were mailed to property owners within 200 feet, 1 returned in favor, 1 returned in opposition, and no response from the Alta Vista Neighborhood Association.

Naema Vides, applicant, - stated they contacted DSD before building and were told no permits were needed if it is less than 300 square feet.

Public Comment:

Julia Valdez, in opposition

Chair Oroian asked for a motion for item **BOA-22-10300172** as presented

Kaplan made a **motion** for **BOA-22-10300172**

Regarding Case No. BOA-22-10300172, I move that the Board of Adjustment grant a request for a request for a 4'11" variance from the minimum 5' side setback, as described in Section 35-370(b)(1), to allow a detached accessory structure with overhang and gutters to be 1" from the side property line, situated at 820 West French Place, applicant being Naema Vides, 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 detached accessory structure with overhang and gutters will not be contrary to the public interest.

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

the detached accessory structure would have to be moved to meet the minimum 5' side setback requirement.

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

the variance for the detached 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*

as the property is zoned “RM-4” and the use of the property is a Residential Mixed District.

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

the detached accessory structure will maintain 1” from the side property line and other structures in the area maintain similar setbacks.

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

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 request does not appear to be merely financial.

Second: **Manna**

In Favor: **None**

Opposed: **Lynde, Albert, Menchaca, Vasquez, Cruz, Manna, Ozuna, Kaplan, Bragman, Teel, and Oroian**

Motion fails.

The meeting went into recess at 3:19P.M. and returned at 3:28P.M.

Item#14 **BOA-22-10300184**: A request by Habitat for Humanity of San Antonio for a variance request for a 11' rear setback from the minimum 20' rear setback to allow new single-family home to be 9' from the rear property line, located at 1712 San Patricio Street. Staff recommends Approval. (Council District 5) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff mentioned 48 notices had been mailed out, 1 returned in favor outside of 200', 0 returned in opposition, and there is no response from the El Charro Neighborhood Association.

No Public Comment

Chair Oroian asked for a **motion** on **BOA-22-10300184** as presented

Manna made a **motion** for **BOA-22-10300184** for approval.

Regarding Case No. BOA-22-10300184, I move that the Board of Adjustment grant a request for a 11' variance from the minimum 20' rear setback requirement to allow a single-family residence to be 9' from the rear property line, situated at 1712 San Patricio, applicant being Michael Taylor, 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 maintain 11' from the rear property line, which would not be contrary to the public interest, as granting the variances would allow the development of a single-family residence.

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

of the inability to develop a single-family residence on the lot. Staff finds an unnecessary hardship as the property was platted in 1924 in its current configuration and due to the shape of the lot, preventing the structure to meet the rear setback requirement.

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

all setbacks aside from the rear setback requirement will be met, therefore the request appears to 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*

the property is part of the original 36 square miles of the City of San Antonio where smaller lots are commonly found. Surrounding properties do not maintain the square footage requirement either, therefore injury to adjacent properties is unlikely.

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. In addition, a setback reduction to the rear would help accommodate a reasonable sized residence on the lot.

Second: **Kaplan**

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

Opposed: **None**

Motion passes.

Item #10

BOA-22-10300174: A request by Hector Santiago for a 3' variance from the minimum 5' side setback requirement to allow a detached accessory dwelling unit with overhang and gutters to be 2' from the side property line, located at 606 East Hart Avenue. Staff recommends Approval. (Council District 5) (Rebecca Rodriguez, Senior Planner, 210-207-0120, Rebecca.Rodriguez@sanantonio.gov, Development Services Department)

Staff stated 28 notices were mailed to property owners within 200 feet, 2 returned in favor, 0 returned in opposition, and there is no response from the St. Leos Neighborhood Association.

Hector Santiago, applicant, - stated he wants to construct a living space for his kids to visit.

No Public Comment

Chair Oroian asked for a motion for item **BOA-22-10300174** as presented.

Teel made a **motion** for **BOA-22-10300174** for approval.

Regarding Case No. **BOA-22-10300174**, I move that the Board of Adjustment grant a request for a 3' variance from the minimum 5' side setback requirement, as described in Section 35-371(b)(7), to allow an Detached Accessory Dwelling Unit with overhang and gutters to be 2' from the side property line, situated at 606 East Hart Avenue, applicant being Hector Santiago, 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 maintain the existing side setback of 3' for the structure and 1' of overhang. All other ADDU requirements will be met include the rear setback therefore 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 because*

the structure would have to move to maintain the 5' side setback or demolition of the structure to rebuild. There is limited space to move the structure away from the side property line which may present an unnecessary hardship.

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

a 2' side setback appears to provide adequate space from the side property line and adjacent structures and the structure will meet the minimum rear setback requirement.

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

as the property is zoned "RM-4" and the use of the property is a Residential Mixed District.

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

the request for a 3' variance from the side setback requirement allows the structure to maintain adequate spacing to the side property line and the structure will have gutters installed therefore the request is not likely to negatively affect the adjacent property.

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

Staff finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property. The detached structure has been in its current location for some time. The request does not appear merely financial.

Second: Bragman

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

Opposed: None

Motion passes.

Item #11 **BOA-22-10300177**: A request by Israel Mendoza for 1) a request for a 45' variance from the 35' maximum front property setback to allow a structure to be 80' from the front property line, and 2) a request for a 2' variance from the minimum 15' clear vision requirement to allow a fence to be 13' from the curb, located at 113 Ripley Avenue. Staff recommends Approval. (Council District 1) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff mentioned 30 notices had been mailed out, 0 returned in favor, 0 returned in opposition, and there is no response from the Alta Vista Neighborhood Association.

Israel Mendoza, contractor, - stated the front setback is 65.8' and the side setback is 6' and he has plans to move the gate over.

No public Comment

Chair Oroian asked for a motion for item **BOA-22-10300177** as presented

Ozuna made a motion for **BOA-22-10300177** for approval.

Regarding Case No. **BOA-22-10300177**, I move that the Board of Adjustment grant a request for 1) a request for a 30' variance from the 35' maximum front property setback to allow a structure to be 65' from the front property line situated at 113 Ripley Avenue, applicant being Israel Mendoza, 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 up to 65'. The structure would be situated a reasonable distance from Ripley Avenue.

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 35' 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.*

The 65' setback will observe the spirit of the ordinance, as the building is already built.

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 in the area that have similar setback 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 are 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: **Lynde, Albert, Menchaca, Vasquez, Cruz, Manna, Kaplan, Bragman, Ozuna, Teel, and Oroian**

Opposed: **None**

Motion passes.

Item #12 **BOA-22-10300179**: A request by Charlies Riley for a 15' variance from the 30' rear setback requirement to allow a structure to have a 15' rear setback, located at 2819 South East Military Drive. Staff recommends Approval. (Council District 3) (Joseph Leos, Planner, (210) 207-3074, joseph.leos@sanantonio.gov, Development Services Department)

Staff mentioned 15 notices had been mailed out, 0 returned in favor, 1 returned in opposition, and there was no response from the Highland Hills Neighborhood association.

Christopher Stein, representative – stated the reason for the variance is because they drew the property line because of the topography.

No Public Comment

Chair Oroian asked for a **motion** on **BOA-22-10300179** as presented

Ozuna made a **motion** for **BOA-22-10300179** for approval

Regarding Case No. **BOA-22-10300179**, I move that the Board of Adjustment grant a request for a request for a 15' variance from the 30' rear setback requirement further described as the Northeast corner of lot 2 in the proposed Plat 21-11800595 as referenced to allow a structure to have a 15' rear setback, situated at 2819 South East Military Drive, applicant being Charles Riley, 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 allows the development of a commercial shopping center on a vacant lot.

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 abide by the 30' rear setback requirement. The size and shape of the subject property is irregular.

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

the subject property conforms to the front and side setback requirements.

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 vacant lot.

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 located is fully consistent within the Brooks Area Regional Center SA Tomorrow Plan and Urban Mixed-Use Category. Additionally, the applicant is proposing to construct a retaining wall between the subject and adjacent property.

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

It appears the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property such as the small amount of available

space on the lot.

Second: **Manna**

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

Opposed: **None**

Motion passes.

Item #13

BOA-22-10300180: A request by Elizabeth Escajeda for 1) a request for a 3' 2" variance to the required 5' rear setback for an accessory structure to allow an accessory structure to have a 1' 10" side setback, 2) a request for a 4' variance to the required 5' side setback for an accessory structure to allow an accessory structure to have a 1' side setback, and 3) a request for a variance to the 50% maximum lot coverage for all accessory structures in the rear and side yard to allow over 50% lot coverage for all accessory structures, located at 218 South San Gabriel Avenue. Staff recommends Denial. (Council District 5) (Mirko Maravi, Principal Planner (210) 207-0107, mirko.maravi@sanantonio.gov, Development Services Department)

Staff mentioned 39 notices had been mailed out, 0 returned in favor, 0 returned in opposition, and there was no response from the Las Palmas Neighborhood Association.

Joseph Rodriguez, applicant, - stated they build the structure for storage and that they received signatures in support from surrounding neighbors within 200 feet.

Public Comment:

Voicemail:

Ibarra, in favor with concerns for fire hazards

Chair Oroian asked for a **motion** on **BOA-22-10300180** as presented.

Teel made a **motion** for **BOA-22-10300180** for approval.

Regarding Case No. **BOA-22-10300180**, I move that the Board of Adjustment grant a request for 1) A request for a 3' 2" variance from the required 5' rear setback, as described in Section 35-370(b)(1), to allow an accessory structure to have a 1' 10" side setback. 2) A request for a 4' variance from the required 5' side setback, as described in Section 35-370(b)(1), to allow an accessory structure to have a 1' side setback. 3) A request for a variance to the 50% maximum lot coverage for all accessory structures in the rear and side yard, as described in Section 35-370(b)(3), to allow over 50% lot coverage for all accessory structures, situated at 218 South San Gabriel Avenue, applicant being Elizabeth Escajeda, 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 reduced setback to their accessory structure on the side and rear, and going over the 50% maximum rear/side yard coverage, 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*

the size of the rear yard is smaller than others in the area. This 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 as*

a 1'-10" rear setback and a 1' side setback will leave enough room from the property line, and the increase in allowable lot coverage will observe the spirit of the ordinance and will not adversely affect surrounding properties in the immediate area.

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

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

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

the accessory structure will have a reduced setback while still maintaining separation from the abutting properties. This 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.*

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 lot is smaller than the ones in the area and the owner is left with minimal options for an accessory structure.

Second: **Bragman**

Commissioner Teel withdrew his motion

Commissioner Kaplan made a motion for continuance to December 5, 2022.

Second: **Cruz**

All voted aye.

Motion passes.

Approval of Minutes

Kaplan made a **motion** for Approval of the October 17, 2022 minutes.

Second: **Cruz**

All voted aye.

Opposed: **None**

Abstained: **Bragman**

Minutes Approved.

Adjournment

There being no further business, the meeting was adjourned at 5:04 P.M.

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary