

City of San Antonio



**DRAFT**

**Board of Adjustment Minutes**

Development and Business Services Center  
1901 South Alamo

December 12, 2022

1:00PM

1901 S. Alamo

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

**- Roll Call**

**Present:** Spielman, Menchaca, Manna, Kaplan, Ozuna, Zuniga, Vasquez, Lynde, Cruz, Bragman, and Oroian

**- Absent:** Albert

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** Discussion, Nominations and Election of Pro-Tem Officer.

**Commissioner Zuniga Nominated Commissioner Bragman and she accepted.**

**Chair Oroian asked the Commission if there were any other nominations, no further nominations were offered.**

**With no opposition Ms. Bragman is appointed Pro-Tem by acclamation.**

**Chair Oroian moved items 7, 5, and 6 up on the agenda. He then turned the meeting over to Vice Chair Ozuna and recused himself from items 7, 5, and 6 at 1:13 P.M..**

**Item #7** **BOA-22-10300243**: A request by Tom Portillo for a 3'-5" variance from the minimum 5' side setback requirement, to allow a structure to be 1'-7" from the side property line, located

at 232 Cornell Avenue. Staff recommends Denial with an Alternate Recommendation. (Council District 1) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated the applicant is requesting a continuance to January 23<sup>rd</sup>.

**Public Comment:**

Voicemails:

**Colleen Wagisback**- requesting a continuance to January 23<sup>rd</sup>.

In person:

**Patti Zaiontz**- yielding time to Bianca Maldonado

**Bianca Maldonado**- requesting a continuance

Vice Chair Ozuna asked for a motion for item **BOA-22-10300243**, for a continuance

**Bragman** made a motion for **BOA-22-10300243** for a continuance to January 23<sup>rd</sup>.

**Second:** Cruz

All voice voted “Aye”

Motion passed for a continuance to January 23<sup>rd</sup>.

**Item #5**

**BOA-22-10300240**: A request by Alvin Peters a request for 1) a 7’-6” variance from the required 15’ buffer to allow a 7’-6” side buffer next to a residential lot, 2) a 9’-9” variance from the required 15’ buffer to allow a 5’-3” side buffer along a Minor Arterial, 3) a 7’-4” variance from the required 10’ buffer to allow a 2’-8” side buffer along a Collector, and 3) a 20’ variance from the required 30’ side setback to allow a structure to have a 10’ side setback, located at 995 SW 36th Street. Staff recommendation Pending. (Council District 6) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated the applicant is requesting a continuance to January 23<sup>rd</sup>.

**No Public Comment**

Vice Chair Ozuna asked for a **motion** for item **BOA-22-10300240** for a continuance.

**Bragman** made a motion for item **BOA-22-10300240** for a continuance.

**Second:** Cruz

**In favor:** Spielman, Menchaca, Vasquez, Cruz, Manna, Bragman, Kaplan, Lynde, Zuniga, and Ozuna.

**Opposed:** None

**Motion passes for continuance to January 23<sup>rd</sup>.**

**Item #6**      **BOA-22-10300241**: A request by Lake Flato Architects a request for 1) a 4'-11" variance from the 5' minimum side property setback for a structure to be 1" from the side property line, and 2) a request for a 9'-11" variance from the 10' minimum rear property setback for a structure to be 1" from the rear property line, located at 206 Lavaca Street. Staff recommends Approval for the Rear Setback. Staff Recommends Denial with an alternate recommendation for the Side Setback. (Council District 1) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 27 notices were sent out, 1 returned in favor, 1 returned in opposition and the Lavaca Homeowners Association is in favor.

Vikki Yuan, representative, - stated they are replacing the rear structure that is not in renovating condition. They are using the same footprint but not the same foundation.

**No Public Comment**

Vice Chair Ozuna asked for a motion for item **BOA-22-10300241** as presented.

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

Regarding Case No. BOA-22-10300241, I move that the Board of Adjustment grant a request for 1) a 4'-11" variance from the 5' minimum side property setback, for a structure to be 1" from the side property line, and 2) a request for a 9'-11" variance from the 10' minimum rear property setback, for a structure to be 1" from the rear property line, situated at 206 Lavaca Street, applicant being Lake Flato Architects, 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 new structure will be on an existing floor footprint and appears to provide adequate space along the side and rear property line.**

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

**Staff finds an unnecessary hardship due to the limited size of the rear yard and location of the foundation.**

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

**The requested variance is to allow a structure to be closer to the side and rear property line. Due to the configuration of the property and the structure being existing, this will observe the spirit of the ordinance.**

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

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

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

**Staff does not find evidence that the requested variance would alter the essential character of the district as the new structure will be in the rear yard and on a similar footprint.**

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 size and location of the lot. The variance request is not merely financial.**

**Second:** Menchaca

**In favor:** Spielman, Menchaca, Vasquez, Cruz, Manna, Bragman, Kaplan, Lynde, Zuniga, and Ozuna.

**Opposed:** None

**Motion passes.**

**Commissioner Spielman left the boardroom and Chair Oroian entered the boardroom at 1:32.**

**Commissioner Spielman re-entered the boardroom at 1:33P.M...**

**Item #2**

**BOA-22-10300021:** A request by Mario Quiroz a request for 1) a 4'-3" variance from a 5' side setback to allow a patio cover with gutters to be 9" away from side property line, 2) a 1'-2" special exception to the 3' solid fence maximum height to allow a 4'-2" solid fence in the front yard, and 3) a 10" special exception to the 6' solid fence maximum height to allow a 6'-10" solid fence in the side and rear yard, located at 5700 Harefield Drive. Staff recommends Approval for the Side and Rear Yard Fence Height. Staff recommends Denial for the Front Yard Fence Height. Staff recommends Denial, with an alternate recommendation for the Patio Side Setback. (Council District 7) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 36 notices had been mailed out, 0 returned in favor, 1 returned in opposition, and there was no response from the Canterbury Farms Neighborhood Association.

Mario Quiroz, applicant, - stated he did not know you need a permit and the fence is for security.

**Public Comment:**

**Voicemail:**

**Mr. Trevino**, in opposition

**In person:**

**Alexander Enrique**, in opposition

**Public comment is from the same individual**

Chair Oroian asked for a motion for item **BOA-22-10300021** as presented.

Ozuna made a **motion** for item **BOA-22-10300021** for approval.

Regarding Case No. BOA-22-1030021, I move that the Board of Adjustment grant a request for a 4'-3" variance from the minimum 5' side setback requirement, to allow a patio cover with gutters to be 9" away from the side property line, situated at 5700 Harefield, applicant being Mario Quiroz, 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 requesting a 4'-3" variance from the minimum 5' side setback requirement to allow a patio cover with gutters to be with 9" from the side property line, which does not appear to be contrary to the public interest.**

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

**A literal enforcement of the ordinance would require the patio cover to comply with the 5' side setback requirement.**

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

**The patio cover setback variance will be 9" from the side property line. The spirit of the ordinance will be observed as the patio cover will have gutters to mitigate water runoff.**

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

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

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

**Staff finds evidence that the requested variance 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.*

**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 merely financial.**

**Second:** Kaplan

Chair Oroian offered a friendly amendment to match staff's recommendation for a 2' variance to allow a patio cover with gutters to be 3' away from the side property line.

Ozuna and Kaplan accepted the friendly amendment.

**In Favor:** Spielman, Menchaca, Vasquez, Cruz, Manna, Bragman, Kaplan, Lynde, Zuniga, Ozuna, and Oroian.

**Opposed:** None

**Motion passes.**

Chair Oroian asked for a motion for the special exception for **BOA-22-10300021** as presented.

Manna made a **motion** for item **BOA-22-10300021** for approval.

Regarding Case No. **BOA-22-10300021**, I move that the Board of Adjustment grant a request for 1) a 1'-2" special exception to the 3' solid fence maximum height, as described in Section 35-514, to allow a 4'-2" solid fence in the front yard, and 2) a 10" special exception to the 6' solid fence maximum height, as described in Section 35-514, to allow a 6'-10" solid fence in the side and rear yard, situated at 5700 Harefield, applicant being Mario Quiroz, 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 in the front, rear and side appears to have been caused by a concrete slap on the patio area. 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 located along the front, side and rear property is exceeding the maximum height requirement by 10". 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 front, side and rear 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 side, rear and front yard fence will not alter the essential character of the district as there were other similar fence heights in the area.

*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.

Chair Oroian made a friendly amendment to specify the 4'-2" front yard solid fence height is only for the east side of the property.

Ozuna and Kaplan accepted the friendly amendment

**Second:** Kaplan

**In Favor:** Spielman, Albert, Menchaca, Manna, Kaplan, Ozuna, Cruz, Zuniga, Vasquez, Lynde, and Oroian

**Opposed:** None

**Motion passes.**

### Item #3

**BOA-22-10300055:** A request by Valerie Montes a request for 1) a 4' special exception from the maximum 3' front yard fence height requirement to allow a 7' solid screened privacy fence in the front yard, and 2) a 9'-7" variance from the 15' minimum clear vision requirement to allow a solid screened privacy fence to be 5'-5" from the front driveway, located at 104 Pardo Circle. Staff recommends Denial. (Council District 7) (Joseph Leos,

Planner, (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department)

Staff stated 21 notices had been mailed out, 0 returned in favor, 0 returned in opposition, and there is no response from the Donaldson Terrace Neighborhood Association

Valerie Montes, applicant, - stated the fence height is for safety

**No Public Comment**

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

**BOA-22-10300055 request for Special Exception fails due to lack of a motion**

**Item #4**

**BOA-22-10300233**: A request by Gilbert Rodriguez for 1) a 5' variance from the 10' front yard carport maximum height in the Jefferson Neighborhood Conservation District (NCD) design standards to allow a carport to be 15' in height, 2) a request for a front yard carport roof design variance from the Jefferson Neighborhood Conservation District (NCD) design standards to allow a carport to have a pitched roof, and 3) a request for a 5' variance from the 10' minimum front setback requirement to allow a carport to be 5' from the front property line, located at 338 Senisa Drive. Staff recommends Denial. (Council District 7) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 24 notices had been mailed out, 1 returned in favor, 2 returned in opposition (1 being outside 200'), and the Woodlawn Lake and Jefferson Homeowners Associations are opposed as well as the Conservation Society.

Gilbert Rodriguez, applicant, - stated there was an existing carport upon buying the property. They re-used the existing holes and structure and did cosmetic work.

Pedro Cantu, contractor, - stated they raised the structure to accommodate a lifted truck, and extended the front posts due to tree roots compromising the post.

**Public Comment:**

**Milton Zaiontz**, yielding time to Bianca Maldonado

**Bianca Maldonado**, is opposed

**Patti Zaiontz**, is opposed

Chair Oroian asked for a **motion** for **BOA-22-10300233** for a continuance

**Manna** made a motion for **BOA-22-10300233** for a continuance to January 23<sup>rd</sup>.

**Second: Oroian**

**In Favor:** Spielman, Menchaca, Vasquez, Cruz, Manna, Bragman, Kaplan, Lynde, Zuniga, Ozuna, and Oroian.



**Opposed:** None

**Motion passes for continuance to January 23<sup>rd</sup>, 2023.**

**The meeting went into recess at 3:14P.M. and reconvened at 3:26**

**Item #8** **BOA-22-10300244:** A request by Jose Ramon Campos a request for a 2'-9" variance from the minimum 5' side setback requirement to allow a structure to be 2'-3" from the side property line, located at 108 Spruce Street. Staff recommends Approval. (Council District 2) (Joseph Leos, Planner, (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department)

Staff stated 38 notices had been mailed out, 2 returned in favor, 0 returned in opposition, and the Denver Heights Neighborhood Association is opposed.

Jose Campos, applicant, stated he obtained a remodeling permit and amended his application to include gutters.

**Public Comment:**

**Claudia Carlos**, is concerned with the setback

**Casey Thomas**, is concerned with the lack of gutters.

Chair Oroian asked for a motion for item **BOA-22-10300244** as presented.

**Bragman** made a motion for item **BOA-22-10300244** for approval.

Regarding Case No. BOA-22-10300244, I move that the Board of Adjustment grant a request for a 2'-9" variance from the minimum 5' side setback requirement, to allow a structure with gutters to be 2'-3" from the side property line, situated at 108 Spruce Street, applicant being Jose Ramon Campus, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

**The public interest is defined as the general health, safety, and welfare of the public. The applicant is requesting a variance to the side setback in order to allow a structure to be 2'-3" from the side property line. The structure meets the minimum front setback requirement and there is still adequate spacing between the structure and side property line, which does not appear to be contrary to the public interest.**

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

**A literal enforcement of the ordinance would result in the applicant moving the structure 5' from the side property line. This would result in an unnecessary hardship, as the size of the lot is inadequate to build a sizeable duplex.**

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

**The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. The structure is currently 2'-3" from the side property line, which does observe the spirit of the ordinance by providing a decent amount of space between properties.**

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

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

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

**Staff finds that the requested variance will not alter the essential character of the district. Upon site visits, staff observed that small lots were found in the immediate area, including the adjacent property. Additionally, the adjacent property has not been established and is currently a vacant lot.**

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 circumstances do not appear to be merely financial.**

**Second:** Cruz

**In favor:** Spielman, Menchaca, Vasquez, Cruz, Manna, Bragman, Kaplan, Lynde, Zuniga, Ozuna, and Oroian.

**Opposed:** None

**Motion passes.**

## **Item #9**

**BOA-22-10300245:** A request by Lindsay Harris a request for a 11'-10" variance from the 20' required reverse corner side setback to allow a structure and detached accessory structure to be 8'-2" from the side property line, located at 301 Haskin Drive. Staff recommends Approval. (Council District 10) (Joseph Leos, Planner, (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department)

Staff stated 38 notices were mailed to property owners within 200 feet, 2 returned in favor, 0 returned in opposition, and the Oak Park Northwood Neighborhood Association is in favor.

Lindsay Harris, representative, - stated they are tearing down the existing home and building a new one

**Public Comment:**  
**Voicemail:**  
**Brett Kelly**, in favor

Chair Oroian asked for a motion for item **BOA-22-10300245** as presented.

**Kaplan** made a motion for item **BOA-22-10300245** for approval.

Regarding Case No. BOA-22-10300245, I move that the Board of Adjustment grant a request for a 11'-10" variance from the 20' required reverse corner side setback, to allow a structure and detached accessory structure to be 8'-2" from the side property line, situated at 301 Haskin Drive, applicant being Lindsay Harris, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

**The public interest is defined as the general health, safety, and welfare of the public. The applicant is requesting a variance to the side setback to allow a structure and detached garage to be 8'-2" from the side property line. The structure meets the minimum front setback requirement and there is still adequate spacing between the structure and side property line, which does not appear to be contrary to the public interest.**

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

**A literal enforcement of the ordinance would result in the applicant moving the structure 20' from the side property line. This would result in an unnecessary hardship, as conforming to the "NP-8" side setback requirements on a reverse corner lot will prevent the applicant from constructing a sizeable structure.**

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

**The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. The structure is situated to be 8'-2" from the side property line, which does observe the spirit of the ordinance by providing a decent amount of space between properties.**

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

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

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

**Staff finds that the requested variance will not alter the essential character of the district. Upon site visits, staff observed that there were two homes and a water tower located on the single block that the structure would abut.**

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

**Staff finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, such as the subject property being situated on a reverse corner lot. The circumstances do not appear to be merely financial.**

**Second:** Manna

**In favor:** Spielman, Menchaca, Vasquez, Cruz, Manna, Bragman, Kaplan, Lynde, Zuniga, Ozuna, and Oroian.

**In opposition:** None

**Motion passes**

**Item#10**

**BOA-22-10300246:** A request by Jonathan Duque a request for a 4' variance from the minimum 5' side property setback to allow a structure with overhang and gutters to be 1' from the side property line, located at 330 Walton Avenue. Staff recommends Approval. (Council District 5) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 41 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and there is no response from the Palm Heights Neighborhood Association.

Jonathon Duque, applicant, - stated they are trying to rebuild it as is, but it came down and they did add additional square footage and pulled a permit for that.

**No Public Comment**

Chair Oroian asked for a motion for item **BOA-22-10300246** as presented.

**Cruz** made a motion for item **BOA-22-10300246** for approval.

Regarding Case No. **BOA-22-10300246**, I move that the Board of Adjustment grant a request for a 4' variance from the minimum 5' side property setback to allow a structure with overhang and gutters to be 1' from the side property line, situated at 330 Walton Avenue, applicant being

Jonathan Duque, 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 requesting a 4' variance from the minimum 5' side setback requirement to allow a structure with overhang and gutters to be 1' from the side property line, which does not appear to be contrary to the public interest.**

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

**Staff finds an unnecessary hardship due to this being an existing structure. The existing residence is being remodeled and upgraded. The remodel work does not include any additions to the structure.**

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

**The requested variance is to allow a structure to be closer to the side property line. Due to the configuration of the property and the structure being existing, this will observe the spirit of the ordinance.**

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

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

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

***Staff does not find evidence that the requested variance would alter the essential character of the district. Additional properties located along Walton Avenue were observed to have structures within the side setback due to the size of the lots, 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 variance is sought is due to unique circumstances for the existing structure on the property. The variance request is not merely financial.**

**Second: Manna**

**In favor:** Spielman, Menchaca, Vasquez, Cruz, Manna, Bragman, Kaplan, Lynde, Zuniga, Ozuna, and Oroian.

**In opposition:** None

**Motion passes.**

**Item #11**

**BOA-22-10300248:** A request by KFW Engineers & Surveyors a request for a 4' variance from the maximum 6' rear yard fence requirement to allow a solid fence to be 10' in height along the rear yard, located at 1526 Semlinger Road. Staff recommends Approval. (Council District 2) (Rebecca Rodriguez, Senior Planner, (210) 207-0120, Rebecca.Rodriguez@sanantonio.gov, Development Services Department)

Staff stated 17 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and there is no response from the Dellcrest Area Neighborhood Association.

Erika Ragsdale, Neighborhood and Housing Department representative, - expressed support of the project

Ashley Davidson, KFW Representative, - stated the fence will be entire length of the property about 740'.

Dr. Kevin Downey, Crosspoint representative, - stated it is going to be a woman's wellness camp

**Public Comment:**

**Voicemail:**

**Anita Franklin, is in favor**

Chair Oroian asked for a motion for item **BOA-22-10300248** as presented.

**Manna** made a motion for **BOA-22-10300248** for approval.

Regarding Case No. BOA-22-10300248, I move that the Board of Adjustment grant a request for a 4' variance from the maximum 6' rear yard fence requirement, as described in Sec. 35-514, to allow a solid screened fence to be 10' in height along the rear yard, situated at 1526 Semlinger Road, applicant being KFW Engineers & Surveyors, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

**The public interest is defined as the general health, safety, and welfare of the public. The applicant is requesting a 4' variance to allow a 10' fence along the rear property line**

**which abuts SE Loop 410. Due to the street classification, the proposed fence could be developed at 8' by right. An additional 2' of fence 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.*

**A literal enforcement of the ordinance would mean that the fence may only be installed at 8' in height. The lot is large in size and due to the proposed use and proximity of the highway, the site requires additional security leading to an unnecessary hardship should the variance be denied.**

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

**The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. The fence will only be located along the rear property line and is being requested due to the safety concerns of being located adjacent to SE Loop 410.**

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 proposed fence would be approximately 430' from the Semlinger Right-Of-Way therefore will not be easily visible from the front. The request 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, such as the size and location of the property.**

**Second:** Kaplan

Commissioners Manna made a friendly amendment to item 5 to be approximately 430' from the property line.

**In Favor:** Spielman, Menchaca, Vasquez, Cruz, Manna, Bragman, Kaplan, Lynde, Zuniga, Ozuna, and Oroian.

**Opposed:** None

**Motion passes.**

### **Approval of Minutes**

**Kaplan** made a motion for Approval of the December 5th, 2022 minutes.

**Second:** Cruz

**All voice-voted aye.**

**Opposed:** None

**Abstained:** Bragman

**Minutes Approved.**

### **Director's Report**

December 19, 2022 Board of Adjustment meeting cancelled. The next regular meeting is January 9<sup>th</sup>, 2023.

### **Adjournment**

There being no further business, the meeting was adjourned at 4:43 P.M.



APPROVED BY: \_\_\_\_\_ OR \_\_\_\_\_  
Chairman Vice-Chair

DATE: \_\_\_\_\_

ATTESTED BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Executive Secretary