

## City of San Antonio



### Minutes Board of Adjustment Development and Business Services Center 1901 S. Alamo

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**Monday, March 6, 2023**

**1:00 PM**

**1901 S. Alamo**

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**1:00 PM – Call to Order**

**SeproTec translator were present.**

**Roll Call – Present:** Spielman, Ingalls Menchaca, Cruz, Zuniga, Manna, Kaplan, Vasquez, Ozuna, Oroian

**Absent:** None

**THE FOLLOWING ITEMS MAY BE CONSIDERED AT ANY TIME DURING THE REGULAR PLANNING COMMISSION MEETING:**

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

**Ms. Ingalls joined panel at 1:11 PM.**

**Vice-Chair Ozuna, presiding, moved item #12 BOA-23-10300033 up on the agenda.  
Chair Oroian recused the meeting at 1:18PM**

**Item #12**

**BOA2310300033:** A request by Alvin G. Peters for a request for a 20' variance from the maximum 25' height requirement to allow a structure height to be 45', located at 14807 O'Connor Road. Staff recommends Approval. (Council District 10) (Joseph Leos, Planner (210) 2073074, joseph.leos@sanantonio.gov, Development Services Department)

Staff stated 22 notices were mailed to property owners, 3 returned in favor, 0 returned in opposition, and El Chapparral Neighborhood Association are in favor.

Alvin Peters, applicant, states interest to add recreational facility with food and beverage services. With this structure there needs to be higher ceilings.

### **No Public Comment**

Mr. Manna made a **Motion** for **BOA-23-10300033** for approval as presented.

Regarding Case No. **BOA-23-10300033**, I move that the Board of Adjustment grant request for a request for a 20' variance from the maximum 25' height requirement to allow a structure height to be 45', situated at 14807 O'Connor Road, applicant being Alvin Peters, 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 public health, safety, and welfare of the public. In this case, the public interest is represented by building height requirements for the protection of view and preserving the character of the neighborhood. Staff finds this variance is not contrary to the public interest as the highest point of 45' is located towards the rear of property, shielding it from the public right of way.**

*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 building the structure 25' in height. This would result in an unnecessary hardship as the applicant would not have sufficient building height for the proposed use intended.**

*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. At its highest point, the proposed structure will be 45' for the accommodation of the proposed use. Staff finds the spirit of the ordinance will be observed and substantial justice will be done as the subject property is zoned "C-2" which allows for community commercial uses, with unlimited building size. The request does not seem to be out of character with the assigned base zoning district.**

*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.*

**If granted, the proposed structure will be 45' at its highest point. The request variance will not substantially injure the appropriate use of adjacent conforming properties or alter the essential character of the district. Upon site visits, staff observed the subject property being located near the intersection of O'Connor Road and Stahl Road. This intersection is a major thoroughfare for this community where other medium commercial uses were observed thus not being out of character from the surrounding land uses.**

*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 applicant not having sufficient height requirements for the proposed use. The circumstances do not appear to be merely financial.**

**Second: Kaplan**

**In favor:** Spielman, Ingalls, Menchaca, Cruz, Zuniga, Manna, Kaplan, Vasquez, Ozuna

**Opposed: None**

**Motion Granted.**

**Chair Oroian re-joined meeting at 1:41 PM**

**Ms. Ingalls left the meeting at 1:41 PM**

**Ms. Cruz and Chair Oroian drop from WebEx at 1:43 PM**

**Chair Oroian re-joined the meeting at 1:52 PM**

**Ms. Cruz re-joined, and with quorum established the meeting resumed at 2:25 PM**

## **Item #2**

**BOA2310300021:** A request by Camillo Fajardo for a request for a 2' special exception to the 6' height limitation to allow an 8' privacy fence in the side and rear yards, located at 334 Altitude Drive. Staff recommends Denial. (Council District 4) (Vincent Trevino, Senior Planner (210) 2075501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 20 notices were mailed to property owners, 2 returned in favor, 0 returned in opposition, and no response from Lackland Terrace Association.

Camillo Fajardo, applicant, requests to build an 8' wooden fence on his elder parent's property to protect them from ongoing criminal activity on and off the property.

**No Public Comment**

Mr. Manna made a **Motion** for **BOA-23-10300021** to be continued to March 20, 2023.

**Second: Zuniga**

**In favor:** Spielman, Menchaca, Cruz, Zuniga, Manna, Kaplan, Vasquez, Ozuna, Oroian

**Opposed: None**

**Motion granted for continuance on March 20th.**

**Item #3**

**BOA2310300022:** A request by Kamlesh Mehta for a request for a 5' variance from the minimum 10' buffer to allow a 5' buffer along a Collector Street, located at 4660 Thousand Oaks Drive. Staff recommends Approval. (Council District 10) (Vincent Trevino, Senior Planner (210) 2075501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 8 notices were mailed to property owners, 1 returned in favor outside 200 feet, 0 returned in opposition, and no response from Sierra North Citizens on Alert Neighborhood Association.

Kamlesh Menta, applicant, requested a friendly drive thru to direct and ease driveway options.

**No Public Comment**

Chair Oroian made a **Motion** for **BOA-23-10300022** for approval as amends.

Regarding Case No. **BOA-22-10300022**, I move that the Board of Adjustment grant a request for a 5' variance from the minimum 10' buffer to allow a 5' buffer along a Collector Street, situated at 4660 Thousand Oaks Drive, applicant being Kamlesh Mehta, 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 landscape variance is not contrary to the public's interest as trees and shrubs can be placed in other portions of the lot.**

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

**Without the variance the applicant would have to comply to the landscape buffer requirements. This would result in an unnecessary hardship for the addition of the building.**

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

**Reducing the landscape buffer requirement will observe the spirit of the ordinance and will not adversely affect surrounding properties in the immediate area.**

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

**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.*

**If granted, the landscape buffer variance will not alter the essential character of the district as no other buffers are required in the abutting or opposing lots.**

*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 unique character of the business would be hindered by the existing buffer.**

**Second: Kaplan**

**Mr. Manna request a friendly amendment to state: Schertz Road, a Collectors Street. Chair Oroian amends to replace Collector Street with Schertz Road, a Collector Street. Amendment accepted by Kaplan, the 2<sup>nd</sup>.**

**In favor:** Spielman, Menchaca, Cruz, Zuniga, Manna, Kaplan, Vasquez, Ozuna, Oroian

**Opposed: None**

**Motion Granted.**

**Item #4**

**BOA2310300023:** A request by Cintia Silva for a request for a 4'"7" variance from the minimum 5' side setback variance to allow a carport to be 5" from the side property line, located at 4919

Annie's Farm. Staff recommends Denial. (Council District 4) (Joseph Leos, Planner (210) 207-3074, joseph.leos@sanantonio.gov, Development Services Department)

Staff stated 33 notices were mailed to property owners, 1 returned in favor, 0 returned in opposition, and no registered neighborhood association for property.

Cintia Silvia, owner, wants to request a permit to build a carport. When she requested the permit, it was granted to her before, but the position of the water pipe was in the middle of the driveway, and they want room to avoid the post which is why they are requesting a variance change.

### **No Public Comment**

Mr. Zuniga made a **Motion** for **BOA-23-10300023** for to be continued to March 20, 2023.

### **Second: Kaplan**

**In favor:** Spielman, Menchaca, Cruz, Zuniga, Manna, Kaplan, Vasquez, Ozuna, Oroian

**Opposed: None**

**Motion granted for continuance on March 20th.**

### **Item #5**

**BOA-23-10300025:** A request by Maria Martinez for a request for 1) a 2'-10" special exception from the maximum 3' front fence height requirement to allow a 5'-10" solid screened fence in the front yard, and 2) an 8'-8" variance from the minimum 15' clear vision requirement to allow a fence to be 6'-4" from the front driveway, located at 1617 Saltillo Street. Staff recommends Denial. (Council District 5) (Joseph Leos, Planner (210) 207-3074, joseph.leos@sanantonio.gov, Development Services Department)

Staff stated 37 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and El Charro Neighborhood in opposition.

Maria Martinez, owner, request to add a special fence due to the threat of an aggressive dog in adjacent property. She states she has a family living on property and wants to keep them and herself safe. The owner has been present when the dog is acting aggressively, and nothing was done to resolve the issue.

Isaac Gonzalez, owner, stands by in support of a higher fence to protect family from threatening dog.

### **No Public Comment**

Mr. Manna made a **Motion** for **BOA-23-10300025** for approval as amended.

Regarding Case No. **BOA-23-10300025**, I move that the Board of Adjustment grant a request for a 8'-8" variance from the minimum 15' clear vision requirement, to allow a predominantly open fence, potentially 3' solid screened on the bottom to be 6'4" from the front driveway, situated at

1617 Saltillo Street, applicant being Maria Martinez, 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 a general health safety in well for the public. The applicant requests an 8'8" variance from the minimum 15' clear vision requirement to allow to be 6'4" from the front driveway. In this case, the public interest is represented by site distances for driveways to assure the vehicular traffic protection. Staff finds that this request is not contrary.**

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

**A literal enforcement of the ordinance would result is applicant altering the fence to meet the minimum 15" distance requirement. Staff found the lot was smaller and narrower in size per bidding these special condition for the subject property that would warrant the need is for reduce distance. This would result in unnecessary hardship as the fence is halfway constructed.**

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 is currently 6'4' from the front driveway. Staff finds the spirit of the ordinance will be observed and substantial justice will be done with requested variance as adequate site differences is presented.**

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.*

**If granted the distance will maintain 6'4" from the front driveway, which is not likely to alter the essential character of the district. Upon site visits, staff observed other front yard fences in the immediate vicinity; however, we are predominantly open.**

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 severance sought is due to for which the reduced landscape variances are sought is due to unique circumstances existing on the property, such as the shape and the size of a lot of the property.**

**Second: Kaplan**

**In favor:** Spielman, Menchaca, Cruz, Zuniga, Manna, Kaplan, Vasquez, Ozuna, Oroian

**Opposed: None**

**Motion Granted.**

**Mr. Ozuna requested a motion for special exemption for the height of fence.**

Mr. Manna made a **Motion** for **BOA-23-10300025** for approval special exemption.

Regarding Case No. **BOA-23-10300025**, I move that the Board of Adjustment grant a request for a 2'-10" special exception from the maximum 3' front fence height requirement, to allow a 5'-10" predominantly open fence from the side of the house to the front street, and a 4' predominantly open fence along the street, situated at 1617 Saltillo Street, applicant being Maria Martinez, 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. Staff finds the proposed 5'-10" predominantly open screened fence will be requested in the front yard and a side fence 4' predominantly open in the front yard is in harmony with the spirit and purpose of the ordinance as it is intended to provide safety and security for the subject property.**

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

**In this case, these criteria are represented by fence heights to protect property owners while still promoting a sense of community. The fence at its current height appears to 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 and adjacent properties; therefore, the additional front fence height will not substantially injure neighboring properties.**



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

**The additional fence height in the front yard will not alter the essential character of the district, as there is already an established precedence for front yard fences in the immediate area.**

*E. 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 because the taller fence will only be located along the side property lines, and the front will match the existing fences along that street past along the front façade of the house.**

## **Second: Kaplan**

**Ms. Kaplan exited the meeting at 3:35 and joined at 3:37 PM**

**The meeting went into recess at 3:47 and reconvened at 3:57 PM**

**Ms. Cruz dropped from WebEx at 4:02PM and rejoined at 4:05 PM**

**In favor:** Spielman, Menchaca, Cruz, Zuniga, Manna, Kaplan, Vasquez, Ozuna, Oroian

**Opposed: None**

**Motion Granted.**

## **Item #6**

**BOA-23-10300026:** A request by Mark Lovecchio for a request for a 7'-6" variance from the minimum 15' buffer to allow a 7'-6" buffer on the north and south property lines, located at 5552 NW Loop 410. Staff recommends Approval. (Council District 7) (Jacob Exler, Planner, (210) 207-5876, Jacob.Exler@sanantonio.gov, Development Services Department)

Staff stated 2 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and no registered neighborhood association for property.

Matthew Cortie, civil engineer for project, is granted access to build a local Chik-fil-a on subject property.

## **No Public Comment**

Chair Oroian made a **Motion** for **BOA-23-10300026** for approval as presented.

Regarding Case No. **BOA-23-10300026**, I move that the Board of Adjustment grant request for a 7'-6" variance from the minimum 15' buffer to allow a 7'-6" buffer on the north and south property lines, situated at 5552 NW Loop 410, applicant being Mark Lovecchio, 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 reduced buffer will leave enough room between properties to reduce noise and so is not contrary to the public interest.**

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

**The full landscape buffer would reduce the amount of space the applicant can build on the property, 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 spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. The reduced landscape buffer will observe the spirit of the ordinance as it will leave a buffer 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.*

**The reduced landscape buffer will not substantially injure the appropriate use of adjacent properties as the buffer variances being sought border commercial properties.**

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

**Staff finds the plight of the owner of the property for which the reduced landscape variances are sought is due to unique circumstances existing on the property, such as the location of the property.**

**Second: Manna**

**In favor:** Spielman, Menchaca, Cruz, Zuniga, Manna, Kaplan, Vasquez, Ozuna, Oroian

**Opposed: None**

**Motion Granted.**

**Item #7**

**BOA-23-10300027:** A request by Langan Engineering and Environmental Services, Inc. for a request for a 22'-6" variance from the minimum 30' buffer to allow a 7'-6" buffer along the north and south property lines, located at 2203 SE Loop 410. Staff recommends Approval. (Council District 2) (Jacob Exler, Planner, (210) 207-5876, Jacob.Exler@sanantonio.gov, Development Services Department)

Staff stated 14 notices were mailed to property owners, 2 returned in favor, 0 returned in opposition, and Dellcrest Area Neighborhood Association.

Matthew Cortie, civil engineer for project, request access to build a local Chik-fil-a on subject property.

**No Public Comment**

Ms. Kaplan made a **Motion** for **BOA-23-10300027** for approval as presented.

Regarding Case No. **BOA-23-10300027**, I move that the Board of Adjustment grant a request for a 22'-6" variance from the required 30' buffer to allow a 7'-6" buffer along the north and south property lines, situated at 2203 SE Loop 410, applicant being Mark Lovecchio, 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 reduced buffer will leave enough room between properties to reduce noise and so is not contrary to the public interest.**

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

**The full landscape buffer would reduce the amount of space the applicant can build on the property.**

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 reduced landscape buffer will observe the spirit of the ordinance as it will leave a buffer 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.*

**The reduced landscape buffer will not substantially injure the appropriate use of adjacent properties as the buffer variances being sought border commercial properties.**

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

**Staff finds the plight of the owner of the property for which the reduced landscape variances are sought is due to unique circumstances existing on the property, such as the location of the property.**

**Second: Manna**

**In favor:** Spielman, Menchaca, Cruz, Zuniga, Manna, Kaplan, Vasquez, Ozuna, Oroian

**Opposed: None**

**Motion Granted.**

**Item #8**

**BOA-23-10300028:** A request by Alamo As Builts for a request for 1) a 50'-3" variance from the NCD-8 maximum 50' front façade length to allow an 100'-3" front façade, and 2) a 10' variance from the NCD-8 minimum front setback of 20 feet to allow a front setback of 10', located at 2060 West Woodlawn Avenue. Staff recommends Denial. (Council District 7) (Jacob Exler, Planner, (210) 207-5876, Jacob.Exler@sanantonio.gov, Development Services Department)

Staff stated 25 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and Woodlawn & Jefferson Neighborhood Association in opposition.

John Diggs, applicant, requests to add additional space for a growing family and kids on subject property. Permitting was an issue but soon after resolved. He states there is an issue with the Woodlawn Conservation Society in terms of the length and width of the home.

**Public Comment**

Voicemail

Bianca Maldonado supports position of Neighborhood Association for denial.

**Commissioners encourage more votes in support of the applicants plans for home additions on subject property.**

Ms. Kaplan made a **Motion** for **BOA-23-10300028** to be continued to March 20, 2023.

**Second: Manna**

**In favor:** Spielman, Menchaca, Cruz, Zuniga, Manna, Kaplan, Vasquez, Ozuna, Oroian

**Opposed: None**

**Motion granted for continuance on March 20th.**

**Item #9**

**BOA-23-10300030:** A request by Jane Wetzel for a request for a variance from the fence materials to allow for a corrugated metal fence in the side and rear yards, located at 17103 Springhill Drive. Staff recommends Denial. (Council District 9) (Joseph Leos, Planner (210) 207-3074, joseph.leos@sanantonio.gov, Development Services Department)

Staff stated 21 notices were mailed to property owners, 5 returned in favor, 0 returned in opposition, and no registered neighborhood association for property.

Jane Wetzel, applicant, replaced an existing fence with the confidence it could be done granted neighbors have similar fences; however, he was not aware of the need for a permit to do so.

**Public Comment**

Martha Pena, in support.

Chair Oroian made a **Motion** for **BOA-23-10300030** for approval as presented.

Regarding Case No. **BOA-23-10300030**, I move that the Board of Adjustment grant request for a request for a variance from the fence materials to allow for a corrugated metal fence in the side and rear yards., situated at 17103 Springhill Drive, applicant being Jane Wetzel, 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. In this case, the public interest is represented by restricted fence materials to provide uniformity within a community. The variance is not contrary to the public interest as**

**the corrugated metal fencing is not conflicting with the immediate property owner fence materials.**

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 an unnecessary hardship as the applicant would need to rebuild the already constructed fence.**

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. In this case, the spirit of the ordinance will be observed, as the fence is abiding by the UDC fence height requirements for solid screened fences in the side and rear yard.**

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.*

**If granted, the fence will be allowed the prohibited fence material. If so, this will not injure the appropriate use of adjacent conforming properties and 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.**

**Second: Manna**

**In favor:** Cruz, Manna, Kaplan, Vasquez, Ozuna, Oroian

**Opposed:** Spielman, Menchaca, Zuniga

**Motion Fails. 6-3**

**Mr. Manna** made a **Motion** for **BOA-23-10300030** to be reconsidered.

**Second: Zuniga****All affirmative.**

**Ms. Kaplan** made a **Motion** for **BOA-23-10300030** to be continued to April 3, 2023.

**Second: Zuniga**

**In favor:** Spielman, Menchaca, Cruz, Zuniga, Manna, Kaplan, Vasquez, Ozuna, Oroian

**Motion Granted for continuance on April 3rd.**

**Item #10**

**BOA-23-10300031**: A request by Killen, Griffin & Farrimond, PLLC for a request for 1) a 3' special exception from the maximum 5' fence height to allow a predominately open fence to be 8' tall in the front property lines and 2) a 2' special exception from the maximum 6' fence height to allow a predominately open fence to be 8' tall along the side and rear property lines, located at 6730 Fairdale Drive. Staff recommends Approval. (Council District 2) (Rebecca Rodriguez, Senior Planner, (210) 207-0120, Rebecca.Rodriguez@sanantonio.gov, Development Services Department)

Staff stated 5 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and no response from Eastwood Terrell Neighborhood Association.

Ashley Farrimond, owner, request an 8' fence due to some concerning issue with security including police reports.

**No Public Comment**

Chair Oroian made a **Motion** for **BOA-23-10300031** for approval as presented.

Regarding Case No. **BOA-23-10300031**, I move that the Board of Adjustment grant a request for 1) a 3' special exception from the maximum 5' fence height to allow a predominately open fence to be 8' tall in the front property lines and 2) a 2' special exception from the maximum 6' fence height to allow a predominately open fence to be 8' tall along the side and rear property lines, situated at 6730 Fairdale Drive, applicant being Killen, Griffin & Farrimond, PLLC, 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 variance is to allow an 8' predominantly open fence along the front and side property lines which appears to be closely aligned with the code. 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.*

**The adjacent property is a railroad right-of-way and further east is an interstate highway. The additional fence height will help add additional security to the property and act as a safety measure to a vulnerable lot, serving 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 and adjacent properties. The property to the north is currently vacant and the property to the east has railroad tracks therefore injury to neighboring properties is unlikely.**

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.*

**Along with adding additional security, the requested 8' predominately open fence will improve the look of the property. The essential character of the district will not be disrupted by the request.**

E. *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.**

**Second: Kaplan**

**In favor:** Spielman, Menchaca, Cruz, Zuniga, Manna, Kaplan, Vasquez, Ozuna, Oroian

**Opposed: None**

**Motion Granted.**

**Item #11**

**BOA-23-10300032:** A request by Killen, Griffin & Farrimond, PLLC for a request for 1) a 3' special exception from the maximum 5' fence height to allow a predominately open gate to be 8' tall in the front property lines and 2) a 2' special exception from the maximum 6' fence height to allow a predominately open fence to be 8' tall along the side and rear property lines, located at 13923 SW Loop 410. Staff recommends Approval. (Council District 4) (Rebecca Rodriguez, Senior Planner, (210) 207-0120, Rebecca.Rodriguez@sanantonio.gov, Development Services Department)

Staff stated 14 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and no registered neighborhood association for property.



Ashley Farrimond, owner, request an 8' fence due to some concerning issue with security including police reports. She wants to prevent crime and improve security.

### No Public Comment

Ms. Kaplan made a **Motion** for **BOA-23-10300032** for approval as presented.

Regarding Case No. **BOA-23-10300032**, I move that the Board of Adjustment grant a request for 1) a 3' special exception from the maximum 5' fence height to allow a predominately open gate to be 8' tall in the front property lines and 2) a 2' special exception from the maximum 6' fence height to allow a predominately open fence to be 8' tall along the side and rear property lines, situated at 13923 SW Loop 410, applicant being Killen, Griffin & Farrimond, PLLC, 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 proposed 8' fence will be predominantly open and located along the side (west) property line and rear (south) property line. 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.*

**The additional fence height will aid with deterring unauthorized personnel on the property while the material will help with not completely isolating the property from the rest of the neighborhood.**

*C. The neighboring property will not be substantially injured by such proposed use. The additional fence height being requested will enhance security for the subject property. The adjacent properties are also zoned for commercial uses therefore the request is unlikely to injure the 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 property is located in an undeveloped area of the City. Lots adjacent to the subject property are currently vacant leading to believe that the character of the district has not yet been established therefore the request is highly unlikely to 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 requested special exception will not weaken the general purpose of the district.**

**Second: Manna**

**In favor:** Spielman, Menchaca, Cruz, Zuniga, Manna, Kaplan, Vasquez, Ozuna, Oroian

**Opposed: None**

**Motion Granted.**

**Item #13**

**BOA-23-10300034:** A request by LECA Construction, LLC for a request for a 19' variance from the maximum 20' front setback to allow structures to be 39' from the front setback for 86 lots, located at Various on Crooked Trail. Staff recommends Approval. (Council District 4) (Jacob Exler, Planner, (210) 207-5876, Jacob.Exler@sanantonio.gov, Development Services Department)

Staff stated 11 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and no registered neighborhood association for property.

Jaime Jimenez, project manager, wants to add more parking space for residents. He wants to add garage and two more parkways for other residents.

**No Public Comment**

Mr. Manna made a **Motion** for **BOA-23-10300034** for approval as presented.

Regarding Case No. **BOA-23-10300034**, I move that the Board of Adjustment grant a request for a 19' variance from the maximum 20' front setback to allow structures to be 39' from the front setback for lots 86, situated on Crooked Trail, applicant being LECA Construction, 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 variance is not contrary to the public interest as the increased front setback will not affect surrounding areas.**

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 unnecessary hardship as it would require the applicant to reconfigure the parking plan.**

*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 variance would observe the spirit of the ordinance as it is in a privately closed subdivision.**

*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 increased front setback would not injure the use of adjacent properties or alter the essential character of the district as it will be its own subdivision.**

*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 reduced front setback variance is sought is due to unique circumstances existing on the property.**

**Second: Menchaca**

**In favor:** Spielman, Menchaca, Cruz, Zuniga, Manna, Kaplan, Vasquez, Ozuna, Oroian

**Opposed: None**

**Motion Granted.**

**Ms. Cruz left the meeting at 5:50 PM**

**Adjournment before considering minutes of previous meeting due to lack of quorum, meeting was adjourned at 5:51 P.M.**

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

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

ATTESTED BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Executive Secret