

# City of San Antonio



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

**Monday, June 5, 2023**

**1:00 PM**

**1901 S. Alamo**

**1:03 PM – Call to Order**

**SeproTec translator were present.**

**Roll Call – Present:** Menchaca, Caudill, Manna, Kaplan, Cruz, Bragman, 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.*

**Vice Chair Ozuna brought Item #5 to be addressed.**

**Item #5**

**BOA-23-10300106:** A request by Giovanna Albrecht for a special exception to allow one (1) additional Type 2 Short-Term Rental permit on the block face, located at 750 Fulton Avenue. Staff recommends Denial. (Council District 1) (Emily Garcia, Planner (210) 207-0271, Emily.Garcia@sanantonio.gov, Development Services Department)

Staff stated 24 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and no response from the Beacon Hill Neighborhood Association.

Giovanna Albrecht, applicant, states she is concerned because her business was shut down. She paid her renewal last year and did not hear anything back regarding her permit. However, when she had the city inspector come, she was informed she is at fault because there is no permit.

## No Public Comment

Ms. Bragman made a **Motion** for **BOA-23-10300106** for **special exemption** approval as presented.

Regarding Case No. **BOA-23-10300106**, I move that the Board of Adjustment grant a special exception to allow for (1) Type 2 short term rental unit, situated at 750 Fulton Avenue, applicant being Giovanna Albrecht, 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 not materially endanger the public health or safety.*

**The Board finds that the request to operate an additional short-term rental is unlikely to materially endanger the public health, safety, or welfare. There is nothing obvious that would distinguish a short-term rental versus a long term rental at this facility.**

*B. The special exception does not create a public nuisance.*

**There does not appear to be a reason to believe a public nuisance would be created if an additional short term rental permit was approved.**

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

**The neighboring properties consist of single-family structures. This scenario does not cause reason to believe it will substantially injure neighboring property as a Type 2 Short Term Rental.**

*D. Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary faculties have been or are being provided.*

**The subject property provides off-street parking and appears to have adequate utilities, access, and open space.**

*E. The applicant or owner for the special exception does not have any previously revoked short term rental licenses, confirmed citations, or adjudicated offenses convictions for violations of Chapter 16, Article XXII of the City Code within one year prior to the date of the application.*

**The applicant currently has a code enforcement case pending. On March 22, 2023, applicant received a notice for a licensing permit investigation INV-PST-INV23-**

**3010000535 for operating with an expired permit STR-19-13501277. Case is still open pending Board of Adjustments decision.**

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

**The subject property is located in close proximity to other residential. With the property owner providing off-street parking and maintaining it from the neighboring property, the special exception does not appear to alter the essential character of the district and location in which the property is seeking the special exception.**

**Second: Kaplan**

**Favor:** Menchaca, Caudill, Cruz, Manna, Kaplan, Vasquez, Bragman, Ozuna, Oroian

**Opposed:** None

**Motion Granted.**

**Item #10**

**BOA-23-10300100:** A request by Christensen P.C. for a 2' variance from the minimum 5' side setback requirement to allow a structure to be 3' from the side property lines, located at 228 Barrera Street. Staff recommends Approval. (Council District 1) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 33 notices were mailed to property owners, 4 returned in favor, 3 returned in favor outside 200', 0 returned in opposition, and Lavaca Neighborhood Association in support.

Patrick Christensen, representative, states, the applicant had a site plan approved from the old IDZ zoning. After the pandemic the applicant reports to the Lavaca Historic District with their site plan and HDRC has different preferences for the property leading the applicant to rezone since the older site plan reflects otherwise.

**No Public Comment**

Mr. Manna made a **Motion** for **BOA-23-10300100** for approval as presented.

Regarding Case No. **BOA-23-10300100**, I move that the Board of Adjustment grant a request for a 2' variance from the minimum 5' side setback requirement to allow a structure with gutters to be 3' from the side property lines, situated at 228 Barrera Street, applicant being Christensen P.C., 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 setbacks to allow a structure to be 3' from the side property lines, which is not 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 building the structure 5' from the side property lines, which would result in an unnecessary hardship as the structure would have to have reduce the square footage reduced to meet the setback requirements.**

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 would be 3' from the side property lines, which observes the spirit of the ordinance due to the size of the lot and the proposed square footage of the structure.**

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 structure will be 3' from the side property lines due to the size of the lot and the proposed square footage of the structure and 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.**

**Second: Kaplan**

**Favor:** Menchaca, Caudill, Cruz, Manna, Kaplan, Vasquez, Bragman, Ozuna, Oroian

**Opposed:** None

**Motion Granted.**

**Item #11**

**BOA-23-10300102**: A request by Brevity Coffee Company for a 120' variance from the minimum 200' distance requirement to allow a Mobile Food Court to be 80' from a singlefamily lot, located at 6005 Tezel Road. Staff recommends Approval. (Council District 6) (Joseph Leos, Planner (210) 2073074, Joseph.Leos@sanantonio.gov, Development Services Department)

Staff stated 17 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and no response from the Great Northwest Community Improvement Neighborhood Association.

Cole DeMuth, applicant, states, the shop ran out of power and CPS advised new utilities underground, but to avoid expense, they installed a pole that meets CPS's minimum requirements. Applicant continues, he does not need a permit to become a food truck vendor because he does not have more than two trucks. However, he requests a distance requirement variance to add more behind the structure.

**No Public Comment**

**Mr. Dean joined meeting via WebEx at 1:57 PM.**

Ms. Bragman made a **Motion** for **BOA-23-10300102** for approval as presented.

Regarding Case No. **BOA-23-10300102**, I move that the Board of Adjustment grant a request for a 120' variance from the minimum 200' distance requirement to allow a Mobile Food Court to be 80' from a single family lot, situated at 6005 & 6007 Tezel Road, applicant being Brevity Coffee Company, 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 represented by minimum distance requirements for mobile food courts and the impact they may have on proximity to single-family residentially zoned districts. The applicant is requesting a variance to deviate from the minimum 200' requirement, which is not contrary to the public interest as there is an 81' Right of Way,**

**commercial use, and an existing 55' drainage Right of Way separating the subject property from the surrounding residential uses.**

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

**The special condition found on the subject property is amount of space on the property is limited to place the mobile food court. Without the variance, the applicant would be limited to two food trucks, as the measurement is calculated from property line to property line.**

*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. By granting the variance, the spirit of the ordinance will be observed, and substantial justice will be done, as the mobile food court use, nor any seating areas will be in a required zoning setback, buffer yard, access easement, drainage easement, floodplain, driveway, utility easement and/or fire lane.**

*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 mobile food court will be located 81' from the nearest residentially zoned district. This will not substantially injure the appropriate use of adjacent conforming properties, as the abutting zoning districts to the west and north are zoned "C-3R", which allow for more intense commercial uses. The request does not seem to cause any harm to adjacent property owners as the variance will not appear to create parking on residential local streets does not appear an issue created.**

*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 limited buildable area without imposing into the minimum distance requirement. The circumstances do not appear to be merely financial.**

**Second: Cruz**

**Favor:** Menchaca, Caudill, Cruz, Manna, Kaplan, Vasquez, Bragman, Ozuna, Oroian

**Opposed:** None

**Abstained:** Dean

**Motion Granted****Item #3**

(Continued from 5/15/23) **BOA-23-10300097**: A request by Robert Benke for 1) a 13'-8" variance from the maximum NCD-8 front-facing façade width of 50' to allow a front-facing façade width of 63'-8", and 2) a 3'-6" variance from the minimum 5' rear setback requirement to allow carports to be 1'-6" from the rear property line, located at 1823 West Craig Place. Staff recommends Denial. (Council District 7) (Joseph Leos, Planner (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department)

**Staff states Item #3 BOA-23-10300097 has been postponed.**

**Item #4**

(Continued from 5/15/23) **BOA-23-10300099**: A request by New Comfort Homes Inc. for 1) a 346 square feet variance from the minimum 4,000 square feet to allow development on an "RM-4" lot with 3,654 square feet, 2) a 3 parking spaces variance from the minimum 5 required parking spaces to allow 2 parking space, 3) a 9'-11" variance from the 10' minimum front setback to allow a front setback of 1", 4) a 9'-11" variance from the 10' minimum reverse corner lot side setback to allow a side setback of 1", and 5) a 9'-11" variance from the 10' minimum rear setback to allow a rear setback of 1", located at 103 Kansas Street. Staff recommends Denial for Lot Size and Parking Variances. Staff recommends Approval for Front, Rear and Reverse Corner Lot Setback Variances. (Council District 2) (Mirko Maravi, Principal Planner (210) 207-0107, Mirko.Maravi@sanantonio.gov, Development Services Department)

Staff stated 34 notices were mailed to property owners, 4 returned in favor, 1 in favor outside the 200', 0 returned in opposition, and Denver Height Neighborhood Association is in opposition.

Lawrence Presino, applicant, states, there were previously three units that was converted into one. However, he wants to revert to three units and demo the existing water room, utilize the attic as a unit, and add an additional driveway. He adds, the neighboring properties are in support of these adjustments.

**No Public Comment**

Ms. Kaplan made a **Motion** for **BOA-23-10300099** for approval as presented.

Regarding Case No. **BOA-23-10300099**, I move that the Board of Adjustment grant 1) a 346 square feet variance from the minimum 4,000 square feet to allow development on an "RM-4" lot with 3,654 square feet, 2) a 3 parking spaces variance from the minimum 5 required parking spaces to allow 2 parking space, 3) a 9'11" variance from the 10' minimum front setback to allow a front setback of 1", 4) a 9'-11" variance from the 10' minimum reverse corner lot side setback to allow a side setback of 1", and 5) a 9'-11" variance from the 10' minimum rear setback to allow a rear setback of 1", situated at 103 Kansas Street, applicant being New Comfort Homes Inc., 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 requested variance is not contrary to the public interest as the structure was established and the lot size is not far from being met. The driveway leaves room for tandem parking and additional room to increase the width of the driveway.**

*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 not having the ability to develop the property as zoned.**

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

**The variances will be in the spirit of the ordinance as the structure is developed with the existing reduced setbacks, while mainly abutting right of ways and lot leaves room for additional parking 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 variances will not injure the adjacent properties as the development setback intrusion were established historically on the lot and the ability for additional parking exists on the lot, which is not likely to 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 established developed area and zoning district. The circumstances do not appear to be merely financial.**

**Second: Oroian**

**Chair Oroian made a friendly amendment to the motion to include** “side setback is regarding the east side” accepted by the maker and 2<sup>nd</sup> of the motion.

**Favor:** Menchaca, Dean, Caudill, Cruz, Manna, Kaplan, Vasquez, Bragman, Ozuna, Oroian

**Opposed:** None

**Motion Granted.**

**Item #6**

**BOA-23-10300110:** A request by Shane Wohlrabe for an appeal of the Historic Preservation Officer’s decision to deny a Certificate of Appropriateness, located at 501 East Locust Street. Staff recommends Denial. (Council District 1) (Mirko Maravi, Principal Planner (210) 207-0107, Mirko.Maravi@sanantonio.gov, Development Services Department)

Staff stated 34 notices were mailed to property owners, 4 returned in favor, 1 in favor outside the 200’, 0 returned in opposition, and Denver Height Neighborhood Association is in opposition. Applicants provided two letters from neighbors in support of replacement windows.

Shane Wohlrabe, applicant, states, the denial was based on the window conditions, energy efficiency, waste and lifespan of replacement, and concerns on repairable or irreparable windows. He addresses the HDRC did not consider his implications. The owners have remodeled the home with their last task being the windows. He goes on to say the windows are decades old that do not open or dim noise. The owners have had several artisans out to advise on the cost to repair and would recycle the windows if done. He concludes there is a disconnect with the OHP and sought professionals. He requests window replacements.

Marion Wohlrabe, if there were changes to the panel windows there would be no change in the appearance of the home. The replacement windows are desired because it would result in a superior product. Also, the paneled window would ease in the exterior maintenance of the home.

**Public Comment**

Voicemail:

Curtis Cryer, spoke in support.

Luis Elizondo, spoke in support.

Fredricka Kushner, spoke in opposition.

In person:

Maribel Zimmerman, spoke in support.

Ms. Kaplan made a **Motion** for **BOA-23-10300110** for approval as presented.

Regarding Case No. **BOA-23-10300110**, I move that the Board of Adjustment grant the appeal for the property, situated at 501 East Locust Street, applicant being Shane Wohlrabe, because the information provided by the applicant shows that City staff made an error in a decision to deny a Certificate of Appropriateness

**Second: Manna**

**Favor:** Menchaca, Caudill, Bragman, Ozuna, Oroian

**Opposed:** Kaplan, Manna, Dean, Cruz, Vasquez,

**Motion Fails. 5-5**

**The meeting went to recess at 3:18 PM and reconvened at 3:27 PM.**

**Mr. Bonillas joined the meeting at 3:27 PM**

**Item #7**

**BOA-23-10300118**: A request by Mario Rios for an appeal of an Administrative Official's decision related to the issuance of a building permit to 107 Harding Boulevard based on the interpretation of Section 35-516(j), Setback and Frontage Regulations – Projecting Architectural Features, located at 107 Harding Place. Staff recommends Denial. (Council District 2) (Mirko Maravi, Principal Planner (210) 207-0107, Mirko.Maravi@sanantonio.gov, Development Services Department)

Staff stated 17 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and Denver Height Neighborhood Association is in support of the appeal.

Mario Rios applicant, states, when there was a similar build that went over the sides, that was not classified as an architectural feature and resulted in a variance request. However, with this specific structure because it was stamped as an architectural feature, many code violations are bypassed. There are three similar structures that are being built are against the variance system and may cause water damage to his home. He continues to say that he wanted to build his structure in a similar manner, but the same exemptions were not applied for him.

**Public Comment**

Caroline McDonald, representative of property owner of 107 Harding, spoke in opposition.

Maria Carrick, project management, spoke in opposition.

Chair Oroian made a **Motion** for **BOA-23-10300118** for approval as presented.

Regarding Case No. **BOA-23-10300118**, I move that the Board of Adjustment grant the appeal for the property, situated at 107 Harding Place, applicant being Mario Rios (property owner of abutting property 101 Harding Place), because the information provided by the applicant shows that City staff made an error in a decision related to the issuance of a building permit to 107 Harding Boulevard based on the interpretation of Section 35-516(j), Setback and Frontage Regulations – Projecting Architectural Features.

**Second: Kaplan**

**Favor:** Menchaca, Dean Caudill, Cruz, Manna, Kaplan, Vasquez, Ozuna, Bonillas, Oroian

**Opposed:** None

**Abstained:** Bragman

**Motion Granted.**

**Mr. Caudill left the meeting at 4:15 PM**

**Mr. Riahi joined the meeting via WebEx at 4:16 PM**

**Item #8**

(Continued from 5/15/23) **BOA-23-10300077**: A request by Maria Aleman for a 4'-11" variance from the minimum 5' side setback to allow a structure with a 1'-4" overhang to be 1" from the side property line, located at 210 Cravens Avenue. Staff recommends Denial. (Council District 3) (Mirko Maravi, Principal Planner (210) 207-0107, Mirko.Maravi@sanantonio.gov, Development Services Department)

Staff stated 31 notices were mailed to property owners, 1 returned in favor, 2 in favor outside the 200', 0 returned in opposition, and no response from Highland Hills Neighborhood Association. Applicants provided two statements in support within 200'.

Maria Aleman, applicant, states, she is still unaware of this process, she reached out to surrounding areas to get more in support, including her the neighborhood association but receive little to no response. Her carport is built as an extension of the home, in line with the existing dwelling structure. Applicant constructed the structure without a building permit. Applicant states she amends to include gutters.

**No Public Comment**

Mr. Manna made a **Motion** for **BOA-23-10300077** for approval as presented.

Regarding Case No. **BOA-23-10300077**, I move that the Board of Adjustment grant a 4'-11" variance from the minimum 5' side setback to allow a structure with a 1'-4" overhang which includes gutters to be 1" from the side property line, situated at 210 Cravens Avenue, applicant being Maria Aleman, 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 reduced side setback to the carport added to the principal structure. Staff finds that this request will not be contrary to the public interest as the abutting property structure is setback an excess distance away.**

*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 not building the attached carport in line with the current building setback. This would result in an unnecessary hardship as the building setback is established.**

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

**The spirit of the ordinance will be observed as the structure is developed with adequate separation from abutting structure.**

*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 variance will not injure the adjacent property as the area is developed with reduced setbacks on one side, which is not likely to 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 development of the area and established location of the setback. The circumstances do not appear to be merely financial.**

**Second: Bragman**

**Favor:** Menchaca, Riahi, Cruz, Manna, Kaplan, Vasquez, Bragman, Bonillas, Ozuna, Oroian

**Opposed:** Dean

**Motion Granted.**

**Item #9**

(Continued from 5/15/23) **BOA-23-10300095:** A request by Mandy Lopez for 1) a 4'-11" variance from the minimum 5' side setback to allow a structure to 1" from the side property line, 2) a 15' variance from the minimum 20' rear setback to allow a structure to be 5' from the rear property line, and 3) a 4'-10" variance from the minimum 15' clear vision to allow a 10'-2" clear vision for a driveway, located at 2627 San Luis Street. Staff recommends Denial for the Side and Rear Setback Variances. Staff recommends Approval for the Clear Vision Variance. (Council District 5) (Joseph Leos, Planner (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department)

Mandy Lopez, applicant was not present. Case was not heard, and application was withdrawn.

**Item #12**

**BOA-23-10300107:** A request by Stanley Built LLC for a 2' special exception from the minimum 6' fence height requirement to allow an 8' predominantly open fence in the side and rear yard, located at 2222 Buena Vista Street. Staff recommends Approval. (Council District 5) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 21 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and Historic Westside Residents Neighborhood Association is in support.

Alberto Cantu, applicant, states, throughout construction of the remodel its clear there is a multitude of crime and vandalism. There have been trespassers and supplies that have been stolen. In regards, he requests an 8' security fence in stop the disturbances and protect the future residences of the property.

**Public Comment**

Voicemail:

Leticia Sanchez, surrounding resident, spoke in support.

Ms. Kaplan made a **Motion** for **BOA-23-10300107** for **special exemption** approval as amended.

Regarding Case No. **BOA-23-10300107**, I move that the Board of Adjustment grant a request for a 2' special exception from the minimum 6' fence height requirement to allow an 8' predominantly open fence in the sides and rear yard, situated at 2222 Buena Vista Street, applicant being Stanley Built 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:

*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 fence height being requested is predominantly open and does not exceed 8' in height. If granted, staff finds the request would be in harmony with the spirit and purpose of the ordinance.**

*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 proposed fence being requested will be located along the side and rear property lines and is exceeding the maximum height requirement by 2'. The fence is predominantly open which still serves 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. Additionally, another fence exceeding the minimum height requirement was seen in the immediate area.**

*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 side and rear yards of the subject property does not appear to alter the location for which the special exception is sought, as the abutting base zoning districts are commercially zoned.**

*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**

**Favor:** Menchaca, Riahi, Dean, Manna, Kaplan, Vasquez, Bragman, Bonillas, Ozuna, Oroian

**Opposed:** Cruz

**Motion Granted.**

**Item #13**

**BOA-23-10300108:** A request by Censeo Homes for 1) a 175 square foot variance from the minimum 4,000 square foot lot size to allow a 3,825 square foot lot and 2) an 8'-6" variance from the minimum 35' lot frontage to allow a lot with a 26'-6" lot frontage, located at 14903 Casina Green. Staff recommends Approval. (Council District 8) (Joseph Leos, Planner (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department)

Staff stated 23 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and there is no registered neighborhood association.

Rob Waslou, applicant, states, he reinstates the structure would be undevelopable without the variance and would not see this permit approval to be a disadvantage for any parties involved. He plans to finish lots and plan to fulfill the intension to get the homes built.

**No Public Comment**

Ms. Bragman made a **Motion** for **BOA-23-10300108** for approval as presented.

Regarding Case No. **BOA-23-10300108**, I move that the Board of Adjustment grant a request for 1) a 175 square foot variance from the minimum 4,000 square foot lot size to allow a 3,825 square foot lot and 2) an 8'6" variance from the minimum 35' lot frontage to allow a lot with a 26'-6" lot frontage., situated at 14903 Casina Green, applicant being Censeo Green, 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 minimum lot sizes for consistent development patterns within the neighborhood and lot frontage minimums to allow for adequate access**

**to the street. The proposed construction of the detached single-family dwelling is not contrary, as the use is currently allowed and meets the intention within the current zoning district.**

*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 not being able to build the structure on the subject property. If not granted, the property will continue being vacant, 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 proposed construction is abiding by all other building requirements and the use is currently permitted in the current base zoning district. Additionally, no construction has begun, as the applicant must obtain this variance to start. All of which 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.*

**If granted, the surrounding single-family dwellings will not be injured by the granting of the variance. The lot size and frontage variance will not detract of the communities' character and the use is compatible with the surrounding development.**

*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 square footage of the lot and irregular shape. The circumstances do not appear to be merely financial.**

**Second: Cruz**

**Favor:** Menchaca, Dean, Manna, Kaplan, Vasquez, Bragman, Bonillas, Ozuna, Oroian

**Opposed:** Riahi

**Motion Granted.**

**Ms. Cruz left the meeting at 5:00 PM**

**Item #14**

**BOA-23-10300109:** A request by David Ranjbar for 1) a 3' special exception from the maximum 3' privacy fence height to allow a 6' privacy fence height along the front and east property line located in the front yard, 2) a 3' special exception from the maximum 5' predominantly open fence to allow an 8' fence along the west property line located in the front yard, and 3) a 2' special exception from the maximum 6' fence height to allow an 8' predominantly open fence along the south and west property lines located in the side and rear yards, located at 8118 Latigo Drive. Staff recommends Approval. (Council District 4) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 19 notices were mailed to property owners, 1 returned in favor, 0 returned in opposition, and no response from the Lackland Terrace Neighborhood Association.

Daniel Ranjbar, applicant, states, the subject property would be used for a full-service car body shop, which is why he request a special exemption for the fence height so that he can park vehicles out of public sight.

**Public Comment**

Kerry McFabien, spoke in opposition.

Ms. Kaplan made a **Motion** for **BOA-23-10300109** for approval as presented.

Regarding Case No. **BOA-23-10300109**, I move that the Board of Adjustment grant a request for 1) a 3' special exception from the maximum 3' privacy fence height to allow a 6' privacy fence height along the front and east property line located in the front yard, 2) a 3' special exception from the maximum 5' predominantly open fence to allow an 8' fence along the west property line located in the front yard, and 3) a 2' special exception from the maximum 6' fence height to allow an 8' predominantly open fence along the south and west property lines located in the side and rear yards, situated at 8118 Latigo Drive, applicant being David Ranjbar, 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 fence height being requested is a 6' privacy fence along the front and east property lines located in the front yard and an 8' predominately open fence along the west property line located in the front yard and an 8' predominately open fence along the south and west property lines located in the side and rear yards. 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 property owners while still promoting a sense of community. The proposed fence being requested will be located along the front and east property lines located in the front yard, and the west property line in the front yard, and the south and west property lines located in the side and rear yards and is exceeding the maximum height requirement by 3' and 2'. The privacy and predominantly open fence still 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. Furthermore, residential structures are abutting the subject property to the east and a mobile home dealer is abutting the subject property to the south, which the fence can act as a barrier.**

*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 and east property line located in the front yard and the west property line located in the front yard and the south and west property lines located in the side and rear yards of the subject property does not appear to alter the location for which the special exception is sought, as the abutting base zoning districts to the east are residentially zoned and commercially zoned to the south.**

*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**

**Mr. Manna made a friendly amendment to the motion to include "114' on east portion of the front property" accepted by the maker and 2<sup>nd</sup> of the motion.**

**Favor:** Menchaca, Riahi, Manna, Kaplan, Vasquez, Bragman, Bonillas, Ozuna, Oroian

**Opposed:** Dean

**Motion Granted.**

**Item #15**

**BOA-23-10300114**: A request by Araceli Solis for a 3'-8" variance from the minimum 5' side setback requirement to allow an accessory structure to be 1'-4" from the side property line, located at 6302 Birch Valley Drive. Staff recommends Denial. (Council District 4) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 35 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and no response from the Ridgestone Homeowner Association.

Araceli Solis, applicant, states, she is requesting a variance for a shed built on her property that is under 300 sq feet. She adds, the shed is immovable because it is on concrete.

**No Public Comment**

**Staff states Item #15 BOA-23-10300114 has been postponed until June 26, 2023.**

**Item #16**

**BOA-23-10300116**: A request by Rene Lafuente for 1) a 975 square feet variance from the minimum 6,000 square feet requirement to allow development on a 5,025 square feet lot, 2) a 19'-11" variance from the minimum 20' rear setback requirement to allow an addition to be 1" from the rear property line, 3) a 17' variance from the minimum 25' corner clear vision requirement to allow a corner fence with an 8' clear vision, 4) a 5' variance from the minimum 15' driveway clear vision to allow a 10' driveway clear vision, and 5) a 1'-4" special exception from the maximum 3' privacy fence to allow a 4'-4" privacy fence in the front yard, located at 402 Lovett Avenue. Staff recommends Approval for Clear Vision Variance. Staff recommends Denial for Lot Size and Rear Setback Variances and Fence Height Special Exception. (Council District 4) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 20 notices were mailed to property owners, 0 returned in favor, 1 returned in opposition, and no response from the Quintana Neighborhood Association. There was a letter in opposition from the public.

Rene Lafuente, applicant, states, the property is undersized, and the property owner was trying to add an attached storage. He requests a variance for the storage addition to enclose the area. He adds, the property owner just bought the home and can remove the solid screened fence. The property's unique format leaves no room for additions.

**No Public Comment**

Mr. Manna made a **Motion** for **BOA-23-10300116** for **variance** approval as amended.

Regarding Case No. **BOA-23-10300116**, I move that the Board of Adjustment grant a request for 1) a 975 square feet variance from the minimum 6,000 square feet requirement to allow development on a 5,025 square feet lot, 2) a 19'-11" variance from the minimum 20' rear setback requirement to allow an addition to be 1" from the rear property line, 4) a 5' variance from the minimum 15' driveway clear vision to allow a 10' driveway clear vision, situated at 402 Lovett Avenue, applicant being Rene Lafuente, 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 5' variance from the minimum 15' clear vision requirement to allow a predominately open fence to be 10' from the driveway. In this case, the predominately open fence does not impede vehicles from entering or exiting the property. Staff finds that this request is not contrary as this distance does not propose any safety issues. The applicant is also requesting a lot size and a rear setback variance, which would not pose any safety issues as the lot is already developed and a reduced rear setback is already established.**

*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 altering the fence to meet the minimum 15' distance requirement. It would also result in the lot not being able to be developed and prevent an additional in an already intruding rear setback.**

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

**The fence is currently 10' from the driveway and 17' from the corner. Staff finds the spirit of the ordinance will be observed and substantial justice will be done with the requested variance as adequate sight distance is presented. The spirit of the ordinance is also observed with the requested lot size variance are rear setback variance as the lot cannot be developed and the rear setback will leave room between the adjacent property.**

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

**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, staff finds these requests as no other properties in the immediate area seemed to be violating the UDC building standards and would alter the essential character of the district. If granted, the distance will maintain 10' from the front driveway and from the rear setback and reduced lot size which will not likely alter the essential character of the district. Upon site visits, staff observed other front yard predominantly open fences in the immediate vicinity, similar lot sizes and the rear abuts a commercial 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 and circumstances do not appear to be merely financial.**

**Second: Bragman**

**Favor:** Menchaca, Dean, Manna, Vasquez, Bragman, Riahi, Bonillas, Ozuna, Oroian

**Opposed:** Kaplan

**Motion Granted.**

Regarding Case No. **BOA-23-10300116**, I move that the Board of Adjustment grant a request for a 1'-4" special exception from the maximum 3' privacy fence to allow a 4'-4" privacy fence in the front yard, situated at 402 Lovett Avenue, applicant being Rene Lafuente, 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 proposed fence being requested is a privacy fence that exceeds the maximum height requirement. 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 height to protect residential property owners while still promoting a sense of community. The fence is privacy fence exceeds the maximum allowance, however the location and excess height will still allow the public welfare and convenience to be served.**

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

**The proposed 4'-4" privacy fence will not substantially injure neighboring conforming properties, as the fence is built away from any other residential 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 does not appear to alter the essential character of the district. The privacy fence exceeds the maximum 3' height requirement. The 4'-4" fence height on a small portion of the front yard would 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 allows for the use of a single-family dwelling. The requested special exceptions will not weaken the general purpose of the district and it does not prevent the use.**

**Second: Kaplan**

**Favor:** Menchaca, Dean, Manna, Kaplan, Vasquez, Bragman, Riahi, Bonillas, Ozuna, Oroian

**Opposed:** None

**Motion Granted.**

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

**Item #17**

**BOA-23-10300117:** A request by Villahan Betancur for a variance to allow a corrugated metal fence in the side and rear yard, located at 511 Claude W. Black. Staff recommends Denial. (Council

District 2) (Mirko Maravi, Principal Planner (210) 207-0107, Mirko.Maravi@sanantonio.gov, Development Services Department)

Staff stated 29 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and no response from the Downtown Neighborhood Association.

Villahan Betancur, applicant, states, he chose the fence material because it is durable, more appealing, and less maintenance. He adds, he will add caps to the top and bottom of the fence.

### **No Public Comment**

Regarding Case No. **BOA-23-10300117**, I move that the Board of Adjustment grant a request for a variance to allow a corrugated metal fence with caps on bottom and top in the north side and north rear yard, situated at 511 Claude W. Black, applicant being Villahan Betancur, 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 requested variance is not contrary to the public interest as it is located behind the front façade and does not pose any general health and safety concerns in its location.**

*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 other fencing materials would not match the dwellings aesthetics.**

*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 request appears to be in the spirit of the ordinance as the location and height of the fence abide by UCD standards.**

*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 variance would not substantially injure the appropriate use of adjacent properties as the location of the fence is behind the front façade of the home and has vegetation forward of the fence.**

*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: Oroian**

**Chair Oroian made a friendly amendment to the motion to include “north side and north rear”** accepted by the maker and 2<sup>nd</sup> of the motion.

**Favor:** Menchaca, Dean, Manna, Vasquez, Bragman, Riahi, Bonillas, Ozuna, Oroian

**Opposed: None**

**Motion Granted.**

**Item #18** Approval of minutes from Zoning Board of Adjustments meeting on May 15, 2023

A **Motion** was made by Chair Oroian and seconded Ms. Bragman for approval.

All voted affirmative.

**Adjournment**

There being no further business, the meeting was adjourned at 6:06 PM.

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

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

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