

City of San Antonio



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

Monday, July 10, 2023

1:00 PM

1901 S. Alamo

1:02 PM – Call to Order

SeproTec translator were present.

Roll Call – Present: Spielman, Menchaca, Dean, Cruz, Zuniga, Manna, Vasquez, Bragman,
Ozuna, Bonillas, Caudill, 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.*

Item #1

BOA-23-10300121 (Continued from BOA 6/26/2023): A request by Jose Sepulveda for 1) a 3,231 square feet variance from the minimum 6,000 square foot minimum lot size requirement to allow a lot to be 2,769 square feet and 2) a 11' variance from the minimum 50' lot width requirement to allow a lot to be 39', located at 1722 North Olive Street. Staff recommends denial. (Council District 2) (Joseph Leos, Planner (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department)

Staff stated 34 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and no response from Government Hill Alliance Neighborhood Association.

Jose Sepulveda, applicant, stated as previously mentioned this property is zoned “R-6” which requires a minimum of 6,000 square feet. He is proposing as single-family dwelling on the subject property maintaining all setback requirement as in an “R-6” zone.

No Public Comment**Motion**

A motion was made by Commissioner Manna. Regarding Case No. **BOA-23-10300121**, I move that the Board of Adjustment grant a request for 1) a 3,231 square foot variance from the minimum 6,000 square foot minimum lot size requirement to allow a lot to be 2,769 square feet and 2) a 11' variance from the minimum 50' lot width requirement to allow a lot to be 39', situated at 1722 North Olive Street, applicant being Jose Sepulveda, 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 and width to prevent the overcrowding of development into smaller lots. The applicant is requesting a variance to deviate from these minimum requirements, which are not contrary to the public interest. The increase in density for the assigned zoning district will not infringe on surrounding property owners by the lot being smaller in size.

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 rezoning the property to "R-3" to allow for the development on this lot. This would result in an unnecessary hardship, as the property lot size and width are nonconforming.

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. If approved, the lot will not meet the minimum lot size and width in the assigned zoning district. Staff finds the spirit of the ordinance will be observed, as the structure will be abiding by all other building requirements.

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

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 lot size granted would be 3,251 square feet and width will be 39' within an "R-6" zoned district. Staff finds these requests will not injure the appropriate use of adjacent conforming properties and alter the essential character of the district, as properties in the immediate vicinity are not abiding by the minimum lot size requirement.

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 does not find the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, as the property is smaller in size. The circumstances do not appear to be merely financial.

The motion was seconded by Commissioner Bragman.

Favor: Manna, Bragman, Spielman, Menchaca, Dean, Cruz, Zuniga, Vasquez, Ozuna, Bonillas, Oroian

Opposed: None

MOTION PASSES

Item #2

BOA-23-10300114: A request by Araceli Solis for 1) a 4'11" variance from the minimum 5' side setback requirement to allow an accessory structure to be 1" from the side property line, 2) a 4'6" variance from the minimum 5' side setback requirement to allow a 6" side setback, and 3) a 19'11" variance from the minimum 20' rear setback to allow a 1" rear setback, 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, 2 returned in favor, 1 returned in opposition, and no response from Ridgestone Homeowners Association.

Araceli Solis, applicant, stated they built a shed with a patio cover on the side of their home that is adjacent to their neighbor's home. She stated she has obtained letters from surrounding neighbors expressing support.

No Public Comment

Motion

A motion was made by Commissioner Ozuna. Regarding Case No. **BOA-23-10300114**, I move that the Board of Adjustment grant a request for 1) a 4'- 11" variance from the minimum 5' side setback requirement to allow an accessory structure to be 1" from the side property line, 2) a 4'-6" variance from the minimum 5' side setback requirement to allow a 6" side setback, and 3) a 19'-11" variance from the minimum 20' rear setback to allow a 1" rear setback, situated at 6302 Birch Valley Drive, applicant being Araceli Solis, 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 side setback to provide spacing between the property line and the accessory structure. The applicant is requesting a variance to the side setback to allow an accessory structure to have a 1” setback from the side property line and the principal structure to have an attached patio with a 6” setback from the side property line and 1” setback from the rear property line. Staff finds this distance is suitable and does not impose on the public interest of the adjacent neighbor by having appropriate distance from the shared property line.

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 the side setbacks and the setback from the rear property line is limited in room without going into the side setback.

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 intention is for sufficient spacing between the accessory structure and the property line. The accessory structure will be 1” from the side property line and the attached patio cover will be 6” from the side setback and 1” setback from the rear property line, which observes the spirit of the ordinance and intent of the code as it will have adequate distance to the shared property line and neighboring 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 maintain 1” from the side property line and the patio cover will maintain 6” from the side setback and 1” setback from the rear property line, which is not likely to injure the appropriate use of the adjacent conforming property, as staff observed other similar placement in the area.

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 found unique circumstances on the subject property that would warrant the need for reduced setbacks as the side and rear setback do not have adequate space to put an accessory structure or patio cover without intruding into the side and rear setback.

The motion was seconded by Commissioner Manna.

Commissioner Manna offered a friendly amendment that Item #3 be a 15' variance to allow a 5" rear setback and Item #1 to allow a 1" side setback commences 10 feet from the fence line. Commissioner Ozuna accepted the friendly amendment.

Favor: Ozuna, Manna, Spielman, Menchaca, Dean, Cruz, Vasquez, Bragman, Bonillas, Oroian
Opposed: Zuniga

MOTION PASSES

Item #3

BOA-23-10300123: A request by Jason Barron for 1) a 3'8" variance from the minimum 5' side setback requirement to allow a detached carport to be 1'4" from the eastern property line, 2) a variance from the NCD-5 standard for a carport not to match exterior materials as the principal structure in design, scale, placement, and profile, and 3) a 4' variance from the NCD-5 minimum 5' recessed to allow a carport with a 1' recess from the front façade, located at 933 West Magnolia Avenue. Staff recommends denial. (Council District 1) (Joseph Leos, Planner (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department)

Staff stated 15 notices were mailed to property owners, 1 returned in favor, 0 returned in opposition, and Beacon Hill Area Neighborhood Association is in support.

Jason Barron, applicant, stated shortly after he purchased the home, he was informed of the carport violation. He stated with the help of code enforcement, he was offered possible options to bring carport into compliance. He has visited with surrounding neighbors along with neighborhood association who recommended some cosmetic changes such as painting or wrapping vertical metal post in wood as to match the trim of the home.

Public Comment

Voicemails

Daniel Hubbeling, Chair, Beacon Hill Zoning & Urban Design Committee, stated they are not in opposition.

Motion

A motion was made by Commissioner Bragman. Regarding Case No. **BOA-23-10300123**, I move that the Board of Adjustment grant a request for 1) a 3'- 8" variance from the minimum 5' side setback requirement to allow a detached carport to be 1'-4" from the eastern property line, 2) a variance from the NCD-5 standard for a carport not to match exterior materials as the principal structure in scale, placement, and profile, and 3) a 4' variance from the NCD-5 minimum 5' recessed to allow a carport with a 1' recess from the front façade situated at 933 West Magnolia, applicant being Jason Barron, 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 carport in its current location, with its closeness to the eastern property line, allows for routine maintenance without trespass and risk of fire spread is mitigated. Further, the NCD-5 (Beacon Hill Neighborhood Conservation District) provides guidelines for development, which was passed through neighborhood contribution so that historically common site/building configurations are perpetuated in the future. The carport does not deviate from this requirement, which is not contrary to the public interest of those who want to preserve the neighborhood fabric.

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 carport to abide by the minimum setback requirements and NCD standards. This would result in an unnecessary hardship, as the carport is already constructed. Additionally, the construction of a sizeable carport would be challenging because of the narrow lot size.

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

The requested variances appear to adhere to the spirit of the ordinance, as the carport can be maintained without trespass and fire spread is mitigated. The materials and placement of the carport provide consistency in an established neighborhood, as other similar carports were seen in the immediate vicinity.

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

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 reduction of the side setback will not impose on the abutting property, which will not injure the appropriate use of the neighboring conforming property. The Beacon Hill Neighborhood Conservation District enforces building materials to be consistent with the principal structure. The metal from the carport will not take away from the original character of the home and the current placement does perpetuates the historical arrangement of the buildings. Furthermore, the carport does not appear to take away from the character-defining elements of the neighborhood.

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

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 purchasing the home with the existing carport. The circumstances do not appear to be merely financial.

The motion was seconded by Commissioner Cruz.

Favor: Bragman, Cruz, Spielman, Menchaca, Dean, Zuniga, Vasquez, Ozuna, Bonillas, Oroian

Opposed: None

MOTION PASSES

Item #4

BOA-23-10300137: A request by Marex Solutions LLC for 1) a 10'7" variance from the maximum 20' height, to allow a building with a 30'7" height and 2) request for a half story variance from the maximum 2.5 story, to allow a building with 3 stories, located at 1915 West Laurel Street. Staff recommends approval. (Council District 1) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 32 notices were mailed to property owners, 3 returned in favor, 0 returned in opposition, and no response from West End Hope in Action Neighborhood Association.

Lucinda Rodriguez, applicant, stated she has received letters of support from neighborhood association and from Harper's Chapel. She stated this development would be providing services to the community aging out of foster care, age ranging from 18 to 24 years old.

No Public Comment

Motion

A motion was made by Commissioner Ozuna. Regarding Case No. **BOA-23-10300137**, I move that the Board of Adjustment grant a request for 1) a 10'- 7" variance from the maximum 20' height to allow a building with a 30'-7" height, and 2) request for a half story variance from the maximum 2.5 story to allow a building with 3 stories, situated at 1915 West Laurel Street, applicant being Marex Solutions, 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 Three-story building and additional building height would allow for adequate space for the commercial use, it 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 unnecessary hardship as the applicant would have to build the structure only two and half stories and 20' in height to be in compliance with the ordinance.

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 increased building height would observe the spirit of the ordinance as the three-story building would allow for adequate space for occupation.

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 building height and additional half story will not substantially injure the appropriate use of conforming properties and will not alter the essential character of the district as commercial uses exist to the north and east.

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 are sought is not due to unique circumstances existing on the property but the size of the lot to provide adequate commercial space.

The motion was seconded by Commissioner Cruz.

Favor: Ozuna, Cruz, Spielman, Menchaca, Dean, Zuniga, Manna, Vasquez, Bragman, Bonillas, Oroian

Opposed: None

MOTION PASSES

Item #5

BOA-23-10300142: A request by James Wende for a 2' variance from the minimum 5' side setback to allow a detached garage to be 3' from the side setback, located at 306 East Nottingham Drive. Staff recommends approval. (Council District 10) (Joseph Leos, Planner (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department)

Mirko Maravi, Principal Planner, stated item #5 was withdrawn prior to beginning of meeting.

Item #6

BOA-23-10300143: A request by Bob Wise for a 4'-11" variance from the minimum 5' side setback to allow a detached accessory structure with a 1" side setback, located at 218 West Huisache Avenue. Staff recommends denial. (Council District 1) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 13 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and Monte Vista Historical Neighborhood Association is in support.

Bob Wise, applicant, stated there is a detach garage structure in the back on the alley property line that was built with the original house. This garage has a maid's quarter, and he would like to add more livable space on the first floor and add a second floor for his impaired son.

No Public Comment**Motion**

A motion was made by Commissioner Bragman. Regarding Case No. **BOA-23-10300143**, I move that the Board of Adjustment grant a request for a 4'-11" variance from the minimum 5' side setback to allow a detached accessory structure with a 1" side setback, situated at 218 West Huisache Avenue, applicant being Bob Wise, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

The public interest is defined as the general health, safety, and welfare of the public. The applicant is requesting a variance to the side setback to allow an accessory structure to be 1" from the side property line, 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 setback, 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 1" from the side property line, 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 1” from the side property line 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.

The motion was seconded by Commissioner Manna.

Favor: Bragman, Manna, Spielman, Menchaca, Dean, Cruz, Zuniga, Vasquez, Ozuna, Bonillas, Oroian

Opposed: None

MOTION PASSES

Item #7

BOA-23-10300144: A request by MP2 Urban Development, LLC for a 4' variance from the minimum 5' side setback to allow 1' side setbacks, located at 119131 East Fest Street. Staff recommends denial. (Council District 5) (Joseph Leos, Planner (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department)

Staff stated 32 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and no response from Lone Star Neighborhood Association.

Michael Perez, applicant, stated the purpose of this request is to allow for 1' side setback for the carport awning. He stated he rezoned this property to IDZ in 2018. The setbacks are 14' front setback, 5' side setback with a 10' foot rear setback. He further stated the carport awning is made of steel fire rated. This development is in keeping with other IDZ development in the neighborhood.

No Public Comment**Motion**

A motion was made by Commissioner Ozuna. Regarding Case No. **BOA-23-10300144**, I move that the Board of Adjustment grant a request for a 4' variance from the minimum 5' side setback requirement to allow 1' side setback along the eastern perimeter of 119-131 East Fest allowing 19' as indicated in site plan that was provided. Situated at 119-131 East Fest, applicant being MP2 Urban Development, 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.*

In this case, the public interest is represented by restricted setbacks to provide spacing between property line and structures. Staff finds the anticipated setback distances are suitable, as it does not impose on the public interest of the adjacent neighbors by being too close to the shared property line, water runoff may impose, and risk of fire spread is mitigated.

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 the narrowness of the lot. In this case, the unnecessary hardship presented will prevent the applicant from constructing a sizeable carport for the structure.

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

In this case, the intention is for sufficient spacing between structures and property lines. The structures in their current form observe the spirit of the ordinance or intent of the code as it will not be close to the shared property line and neighboring 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 stay at their current distances, which are not likely to injure the appropriate use of the adjacent conforming properties. Reduced setbacks were seen in the immediate area.

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 narrowness of the lots.

The motion was seconded by Commissioner Manna.

Favor: Ozuna, Manna, Spielman, Menchaca, Dean, Cruz, Zuniga, Vasquez, Bragman, Bonillas, Oroian

Opposed: None

MOTION PASSES

At 2:42 pm, Commissioner Cruz was recused from Item #8, Case Number BOA-23-10300145 and Commissioner Caudill joined in Web Ex at 2:42 pm.

Item #8

BOA-23-10300145: A request by Alan Neff for a half story variance from the maximum two and a half story height to allow a building with three stories, located at 1672 Rigsby Avenue. Staff recommends approval. (Council District 3) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 23 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and no response from Pasadena Heights Neighborhood Association.

Alan Neff, applicant, stated his client is proposing 4 new 3-story residential homes on the subject property at affordable rates. They are requesting for 3 stories as this would allow for 3- or 4-bedroom development with adequate parking. He stated his client is not seeking lofts nor studios apartment type development.

No Public Comment

Motion

A motion was made by Commissioner Manna. Regarding Case No. **BOA-23-10300145**, I move that the Board of Adjustment grant a request for a half story variance from the maximum two and a half story height to allow a building with three stories, situated at 1672 Rigsby Avenue, applicant being Alan Neff, 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.*

Three-story building would allow for adequate space for occupation and so, it 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 unnecessary hardship as the applicant would have to build the structure only two and half stories to be in compliance with the ordinance, preventing enough space to provide parking.

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 additional half story would observe the spirit of the ordinance as the three-story building would allow for adequate space for occupation.

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 additional half story will not substantially injure the appropriate use of conforming properties and will not alter the essential character of the district as it is abutting a commercially zoned property and located on an 80' Collector Street.

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

Staff finds the plight of the owner of the property for which the variances are sought is not due to unique circumstances existing on the property.

The motion was seconded by Commissioner Ozuna.

Favor: Manna, Ozuna, Spielman, Menchaca, Zuniga, Vasquez, Bragman, Bonillas, Caudill, Oroian

Opposed: Dean

Recused: Cruz

MOTION PASSES

Commission went into recess at 3:00 pm

Commission reconvened and Commissioner Cruz re-entered the meeting at 3:10 pm.

Commissioner Manna made a motion to reconsider BOA-23-10300114, seconded by Commissioner Ozuna.

Item #2

BOA-23-10300114: A request by Araceli Solis for 1) a 4'11" variance from the minimum 5' side setback requirement to allow an accessory structure to be 1" from the side property line, 2) a 4'6" variance from the minimum 5' side setback requirement to allow a 6" side setback, and 3) a 19'11" variance from the minimum 20' rear setback to allow a 1" rear setback, 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)

Chair Oroian stated the purpose of reconsideration was due to a miscommunication in the friendly amendment for Item #1 of the motion that needs to be clarified. As it currently reads, it is limited to 10' from the fence for the shed however it should read 15' based on the dimensions provided by the applicant. Therefore, the shed would stay in place as is.

Commissioner Ozuna made original motion and accepted the friendly amendment to limit the distance of the side setback to the first 15' from the front of the house back so the existing shed would remain as is but could not be located any further from the front the house. Commissioner Manna seconded the motion.

All voted in affirmative.

MOTION PASSES**Item #9**

BOA-23-10300164: A request by Raoul Garza for 1) a 29'11" variance from the maximum 15' NCD-6 curb cut to allow curb cuts with a length of 22'5" and 22'6", 2) a variance from the NCD-6 curb cut standards to allow 2 curb cuts on a 50' lot, 3) a 2parking space variance from the minimum 4 parking spaces to allow two units in the NCD-6 to have 2 parking spaces, and 4) a 4'11" variance from the minimum 5' NCD-6 Front Walkway Standard to allow the separation distance of a front walkway and driveway to be 1", located at 115 Milton Street. Staff recommends denial. (Council District 2) (Joseph Leos, Planner (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department)

Staff stated 31 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and Mahncke Park Neighborhood Association is in opposition.

Raoul Garza, applicant, stated the purpose of this request is to allow for additional parking spaces. The original plan called for parking in the back thru the alley. Unfortunately, that is not feasible due existing the utility pole. He stated the parking design was altered to accommodate adequate parking which initiated for this variance. He further stated they attempted to make contact with the neighborhood association unfortunately their call was not return prior to this hearing.

Motion

A motion was made by Commissioner Manna and seconded Commissioner Cruz to recommend a continuance until August 7, 2023, to allow for the applicant to meet with the Mahncke Park Neighborhood Association.

Favor: Manna, Cruz, Spielman, Menchaca, Vasquez, Bragman, Ozuna, Bonillas, Oroian

Opposed: Dean, Zuniga

MOTION PASSES**Item #10**

BOA-23-10300165: A request by Ronald Koepp for a 7'6" variance from the minimum 10' front setback to allow a carport with a 2'6" front setback, located at 4401 Stayman Drive. Staff recommends denial. (Council District 3) (Richard BautistaVazquez, Planner (210) 207-0215, richard.bautistavazquez@sanantonio.gov, Development Services Department)

Staff stated 37 notices were mailed to property owners, 1 returned in favor, 1 returned in opposition, and no response from Pecan Valley Neighborhood Association.

Ronald Koepp, applicant, stated the variance request is to allow for a detached carport installation on his driveway to protect his vehicles. His initial request was for 2 ½ feet from the property line with a 2' overhang. In visiting with staff, he is agreeable with staff's recommendation of a 4' from the property with a 3 ½ foot overhang. He has been in contact with the neighborhood association who have expressed support. He further stated not all the neighborhood has sidewalks as the construction was not completed due to unknown reasons. His property was roughly 70% done when he purchased the property but did not have a driveway.

No Public Comment**Motion**

A motion was made by Commissioner Bragman. Regarding Case No. **BOA-23-10300165**, I move that the Board of Adjustment grant a request for a 6' variance from the minimum 10' front setback to allow a carport with a 4' front setback, situated at 4401 Stayman Drive, applicant being Ronald Koepp, 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 front setback variance would allow the proposed structure to be built and will not negatively affect the 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 the applicant constructing the structure to meet the minimum 10' front setback. The subject property is not large enough to maintain the required front setback.

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

The requested variance is to allow a structure to have adequate space from the front property line. Due to the size of the property and the structure being proposed, this will observe the spirit of the ordinance.

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

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

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

The distance of the carport is not likely to alter the essential character of the district as their carport similar setbacks around the area.

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 not sought is due to unique circumstances existing on the property. The subject property has a limited amount of space that would limit the carport.

The motion was seconded by Commissioner Cruz.

Favor: Bragman, Cruz, Spielman, Menchaca, Dean, Zuniga, Manna, Vasquez, Ozuna, Bonillas, Oroian

Opposed: None

MOTION PASSES

Item #11

BOA-23-10300166: A request by Josefina Velez for a 7'5" variance from the minimum 10' front setback to allow a carport to be 2'7" from the front setback, located at 8834 Thatch Drive. Staff recommends denial. (Council District 7) (Richard BautistaVazquez, Planner (210) 207-0215, richard.bautistavazquez@sanantonio.gov, Development Services Department)

Staff stated 25 notices were mailed to property owners, 1 returned in favor, 0 returned in opposition, and no response from Wildwood Neighborhood Association.

Josefina Velez, applicant, stated she had this carport installed without permits. Since it was not attached to the home, she did not realize a permit was still required. She has visited with her surrounding neighbor who have expressed support. She did not feel this would negatively impact the neighborhood as several residents have similar carports.

No Public Comment

Motion

A motion was made by Commissioner Cruz. Regarding Case No. **BOA-23-10300166**, I move that the Board of Adjustment grant a request for a 7'-5" variance from the minimum 10' front setback to allow a carport to be 2'-7" from the front property line, situated at 8834 Thatch Drive, applicant being Josefina Velez, 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 front setback variance would allow the proposed structure to be built and will not negatively affect the 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 the applicant constructing the structure to meet the minimum 10' front setback. The subject property is not large enough to maintain the required front setback.

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

The requested variance is to allow a structure to have adequate space from the front property line. Due to the size of the property and the structure being proposed, this will observe the spirit of the ordinance.

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

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

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

The distance of the carport is not likely to alter the essential character of the district as their carport design is similar to the surrounding structures.

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 not sought is due to unique circumstances existing on the property. The subject property has a limited amount of space that would limit the carport.

The motion was seconded by Commissioner Manna.

Commissioner Manna offered a friendly amendment from a 7'-5" variance to a 6' variance from the minimum 10' front setback to allow a carport to be 4' from the front property line. Commissioner Cruz accepted the friendly amendment.

Favor: Cruz, Manna, Spielman, Menchaca, Dean, Zuniga, Vasquez, Bragman, Ozuna, Bonillas, Oroian

Opposed: None

MOTION PASSES

Item #12

BOA-23-10300169: A request by Jose Saenz for a 4" variance from the minimum 10' front setback to allow a carport with a 6' front setback, located at 1011 Stonewall Avenue. Staff recommends denial. (Council District 5) (Mirko Maravi, Principal Planner (210) 207-0107, Mirko.Maravi@sanantonio.gov, Development Services Department)

Staff stated 37 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and no response from Tierra Linda Neighborhood Association.

Jose Saenz, applicant, stated he is requesting this variance to allow for a carport to protect his vehicle from the weather. He stated installed the carport himself with the help of family. He stated there was an existing carport that was deteriorating, and he removed it to build a new one.

No Public Comment

Motion

A motion was made by Commissioner Manna. Regarding Case No. **BOA-23-10300169**, I move that the Board of Adjustment grant a 4" variance from the minimum 10' front setback to allow a carport with a 6' front setback, located at 1011 Stonewall Avenue, applicant being Jose Saenz, 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 carport would have a 6' front setback, which would not negatively affect the public interest as a similar carport is able to be constructed with the posts moved 4' to the rear and the overhang ending in the same 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 the applicant having to maintain the carport 10' from the front property line. The driveway in front of the dwelling is approximately 24' which would not cover an entire vehicle with the current required setbacks.

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

The spirit of the ordinance would be observed as a permitted carport overhang can go up to the 5' front property line.

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

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

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

Staff finds that the requested variance would not alter the essential character of the district as the overhang will stop at the same location with posts moved back to the required 10' front setback.

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 not due to unique circumstances existing on the property. The space in front of the dwelling does not leave room for a full 10' setback and the ability to protect vehicles.

The motion was seconded by Commissioner Cruz.

Favor: Manna, Cruz, Spielman, Menchaca, Dean, Zuniga, Vasquez, Bragman, Ozuna, Bonillas, Oroian

Opposed: None

MOTION PASSES

Item #13

BOA-23-10300175: A request by MiCaza Design Architecture for 1) an 826 square feet variance from the minimum 4,000 square feet lot to allow a 3,174 square feet lot, 2) a 15' variance from the minimum 20' rear setback requirement to allow a structure to be 5' from the rear property line, and 3) a variance from the maximum 50% impervious cover requirement to allow the front yard to exceed the maximum 50% impervious cover, located at 818 Virginia Boulevard. Staff recommends approval. (Council District 2) (Joseph Leos, Planner (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department)

Staff stated 40 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and Denver Heights Neighborhood Association is in opposition.

Rolando Castro, applicant, stated they are requesting the variance due to the size of the lot and the rear setback and 50% impervious cover. They are proposing to development 3 story duplexes, 3 bedrooms, 2 bath. The overhangs and drainage would be in the 5-foot setbacks with driveways to roughly be about 12-feet. He feels this proposal would be in keeping with the neighborhood as the surrounding properties are "RM-4". They have not met with Denver Heights Neighborhood Association. He is agreeable to alter the driveway designed to one car driveway

No Public Comment**Motion**

A motion was made by Commissioner Bragman and seconded Commissioner Manna to recommend a continuance until July 24, 2023, to allow for the applicant to meet with the Denver Heights Neighborhood Association.

All voted in affirmative.

MOTION PASSES

Commission went into recess at 4:11 pm

Commission reconvened at 4:30 pm.

3:00 PM Time Certain Items**Item #15**

BOA-23-10300173: A request by Marisa Perales for an appeal of the Director's decision to not allow an appeal due to property owner outside 200', located at 3700 North St. Mary's Street. Staff recommends denial. (Council District 2) (Mirko Maravi, Principal Planner (210) 207-0107, Mirko.Maravi@sanantonio.gov, Development Services Department)

Staff stated 76 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and no responses from Mahncke nor River Road Neighborhood Associations.

Marisa Perez, representative, stated they are requesting commission revisit the Director's decision as she feels the neighboring property owners, both in and outside the 200' radius, should exercise their right to be heard. The surrounding properties owner experience the same effect as the owners closely adjacent to effective subject property.

Public Comment

In Person

Talita White, spoke in opposition of tree removal.

Mrs. Moore, spoke in opposition.

Rebuttal

Marisa Pearles, representative, stated her client is a homeowner near Brackenridge Park and is concerned that she would not be given the opportunity to adequately represent her interest and convey how she would be impacted. She stated this is part of a larger project, the removal of the trees is intended to facilitate restoration some aspects of the Brackenridge Park. The surrounding property owner, inside or outside 200', would and will be impacted.

Motion

A motion was made by Commissioner Manna. Regarding Case No. **BOA-23-10300173**, I move that the Board of Adjustment grant the appeal for the property, situated at 3700 North St. Mary's Street, applicant being Marisa Perales, because the information provided by the applicant shows that City staff made an error in the Director's decision to not allow an appeal due to property owner outside 200'. The motion was seconded by Commissioner Bragman.

Favor: Dean, Cruz

Opposed: Manna, Bragman, Spielman, Menchaca, Zuniga, Vasquez, Ozuna, Bonillas, Oroian

MOTION FAILS

Item #14

BOA-23-10300127: A request by Tomme Riklin for an appeal of the Historic Preservation Officer's decision to approve a Certificate of Appropriateness, located at 3700 North St. Mary's Street. Staff recommends denial. (Council District 2) (Mirko Maravi, Principal Planner (210) 207-0107, Mirko.Maravi@sanantonio.gov, Development Services Department)

Corey Edwards, Deputy Historic Preservation Officer, Office of Historic Preservation, stated the item presented is an appeal of a Certificate of Appropriateness issued by the Historic Preservation Office. The applicant of this appeal is Tomme Lu Moore Ricklin who owns property with 200' radius of the subject property. The subject property being Brackenridge Park, Lambert Beach, addressed at 3700 North St. Mary's. He stated the issued COA was unanimously recommended by the Historic Design Review Commission (HDRC). He stated any properties that are Historic, located in the RIO (River Improvement Overlay) and this is for both public properties and facilities require a COA prior to permitting. Most are addressed administratively by staff however a 1/3 require HDRC recommendation. Phase I of the Bond project for Brackenridge Park, specific to Lambert Beach area that includes, stabilization and restoration of historic stone walls that have not

yet failed; reconstruction of walls that have already failed to match existing; stabilization and reconstruction of the grand staircase to improve safety and accessibility; the underpinning of the 1877 Pump House for foundation stabilization in preparation for Phase II improvements and lastly selective removal of trees located within the projected area. In accordance with UDC, HDRC approval is required for removal of mature trees located on the banks of the San Antonio River. Public access has been denied for safety purposes due to the deterioration.

Kinder, consultant, stated Phase I focuses on Lambert Beach area. As mentioned by staff, this area has been closed off to the public for safety reasons. The north walls show signs of deterioration due to years of aging. Also, the immediate trees surrounding the wall have shown signs of aging that have caused damage to adjacent staircase. They have dewatered river channel wall and walkway at the Pump House to understand what was below grade and to evaluate the grand stairs, river level floor of Pump House. He stated they have held 4 public meetings, project introduction, public input and last 2 meetings to discuss Phase I of Lambert Beach. The public engagement process, several solutions were presented by the public. The consultant team and city staff to engaged with those solutions to see if those were viable solutions. One of the options presented was focused on altering the design of the wall to prevent any tree removal. He stated they worked with Hydrologist, SARA (San Antonio River Authority) to understand the effect this would be. To save trees, the project would become bigger, and they would have to mitigate for the narrowing of the river. The pros of relocating Lambert Beach wall would preserve 8 large trees, maintain existing ecosystem. He stated the cons would be floodplain effects would require mitigation farther upstream, removal of other large trees farther upstream at mitigation site but mostly this would dramatically alter the appearance and function of Lambert Beach.

Commission went into Executive Session at 5:28 pm

Commission reconvened at 5:45 pm

Cory Edwards, Deputy Historic Preservation Officer, Office of Historic Preservation, stated HDRC (Historic Design Review Commission) recommended approval with the following stipulations that were suggested by River Road Neighborhood Association. Stipulation being, no work would occur until the Section 106 is complete; Any additional tree removal would have to be considered by HDRC and lastly, City shall monitor and maintain the heritage and significant trees during and after construction.

Chair Oroian stated no action was taken during Executive Session.

Public Comment

In Person

Susan Strawn, representative, stated Mr. Edwards talked about HDRC relied on the independent Arborist report for their recommendation as required by Section 35-680 and recommendation by City Arborist in the City Forester. She stated they were not aware of anything in the record indicating any recommendation by either City Arborist or City Forester. She stated her client is against the plan of tree removal. The proposed tree removal would destroy important shade canopy over the river and riverbank as well as an iconic viewshed. Lambert Beach is recognized as a

cultural landscape. They also have worked with volunteered engineers as well as consulting arborist to assist with alternate options. She stated there is no evidence of the city saving the trees.

Voicemail

Ralph Caraway, spoke in support of the appeal.

Dr. Judith Norman, spoke in support of the appeal.

Richard Reed, spoke in support of the appeal.

Alicia Gerlach, spoke in support of the appeal.

Carmela Platt, spoke in support of the appeal.

Mimi Quintanilla, spoke in support of the appeal.

Anthony Bustello, spoke in support of the appeal.

Commission Bonillas exited the meeting at 6:39 pm; returned at 6:40 pm

Moby Warren, spoke in support of the appeal.

W. Zamora-Casas, spoke in support of the appeal.

Debra Ponce, spoke in support of the appeal.

Jen McKennedy, spoke in support of the appeal.

Blanquita Sullivan, spoke in support of the appeal.

Grace Gonzales, spoke in support of the appeal.

Graciela Sanchez, spoke in support of the appeal.

Lectica Sanchez, spoke in support of the appeal.

Julian Villarreal, spoke in support of the appeal.

Matt Cooper, spoke in support of the appeal.

Jordan Galley, spoke in support of the appeal.

Robert Buchannan, spoke in support of the appeal.

Rose Mauricio, spoke in support of the appeal.

Jennifer Hollinder, spoke in support of the appeal.

Mimi Jardin, spoke in support of the appeal.

Griselda, spoke in support of the appeal.

Bill Kingman, spoke in support of the appeal.

Ray Morales, spoke in support of the appeal.

John Griel, spoke in support of the appeal.

Raleigh Wood, spoke in support of the appeal.

Commission Ozuna exited the meeting at 6:52 pm; returned at 6:53 pm

In Person

Debbie Galvin, spoke in support of the appeal.

Roy Sweers, spoke in support of the appeal.

Arleen Fisher, spoke in support of the appeal.

Hillary Saunders, spoke in support of the appeal.

Eloise Sullivan, spoke in support of the appeal.

Nate Hollise, spoke in support of the appeal.

Terry Brechtel, spoke in support of the appeal.

Lynn Bobbitt, spoke in support of the appeal.

Ida Ayla, spoke in support of the appeal.

Myfee Moore, spoke in support of the appeal.

Staff stated 76 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and no responses from Mahncke Park nor River Road Neighborhood Associations. Staff received 1 notices of opposition outside the 200' radius.

Commission Menchaca exited the meeting at 7:22 pm; returned at 7:25 pm

Shanon Miller, Director of Historic Preservation, stated she made the decision to issue the Certificate of Appropriateness after considering all the facts and the unanimous recommendation from HDRC for approval. The project was developed from the input of subject matter experts from multiple city departments including Parks, Public Works and Development Services Department. This includes the City Arborist and the entire Urban Forester Team to also include the city's professional design team and the independent arborist. She stated HDRC thoroughly considered the request after multiple site visits as well and a 4 ½ hour public hearing. The Texas Historical Commission approved the project based on the secretary of interiors standards.

Michael Shannon, Director of Development Services, stated city arborist has been involved throughout the process during the project.

Homer Garcia, Director of Parks and Recreation Department, as stated by Mr Shannon, they have all worked closely together on this project since last spring to present. They held a series of meetings to have public input.

Luis Maltos, Assistant Director of Public Works Department, stated Phase I was approved as part of the 2017 Bond Project. He stated projects are normally completed within 5 years however due to the sensitive nature of project, they have exceeded that period and will impact the start of Phase II of this project that was approved in the 2022 Bond.

Commission Vasquez left the meeting at 7:52 pm.

Rebuttal

Susan Strawn, representative, stated staff has stated numerous time that city arborist and forester have been working on this project however they still do not have a recommendation from the arborist nor forester. After alternate recommendations to the city to comply with Section 35-680, there is still no compromise.

Motion

A motion was made by Commissioner Zuniga. Regarding Case No. **BOA-23-10300127**, I move that the Board of Adjustment grant the appeal for the property, situated at 3700 North St. Mary's Street, applicant being Tomme Riklin, because the information provided by the applicant shows that City staff made an error in Historic Preservation Officer's decision to approve a Certificate of Appropriateness.

The motion was seconded by Commissioner Cruz.

Favor: Spielman, Menchaca, Dean, Manna, Bonillas, Caudill

Opposed: Cruz, Zuniga, Bragman, Ozuna, Oroian

MOTION FAILS

Item #16

Approval of the minutes from the Zoning Board of Adjustment meeting on June 26, 2023.

A motion was made by Commissioner Cruz and seconded Commissioner Oroian for approval of the June 26, 2023, minutes as presented.

Favor: Cruz, Oroian, Spielman, Menchaca, Zuniga, Manna, Bragman, Ozuna, Bonillas, Caudill

Abstain: Dean

MOTION PASSES

Adjournment

There being no further business, the meeting was adjourned at 8:06 PM.

APPROVED BY: _____ or _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary