

## City of San Antonio



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

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Monday, August 7, 2023

1:00 PM

1901 S. Alamo

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1:01 PM – Call to Order

**SeproTec translator were present.**

**Roll Call – Present:** Spielman, Menchaca, Cruz, Zuniga, Manna, Benavides, Bonillas, Vasquez,  
Ozuna, Oroian

**Absent:** Dean, Bragman

**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.*

Chair Oroian sworn in Commissioner Tamara Benavides.

Chari Oroian stated Item #1 BOA-23-10300164 and Item #2 BOA-23-1300175 have requested a  
continuance to meeting with the neighborhood associations.

#### **Public Comment**

**Voicemail** – BOA-23-10300164

No name, spoke in opposition.

**Motion**

Chair Oroian made a motion to continue BOA-23-10300164 and BOA 23-1300175 until September 11, 2023, and was seconded by Commissioner Manna.

**Favor:** Oroian, Manna, Spielman, Menchaca, Cruz, Zuniga, Benavides, Ozuna, Bonillas

**Opposed:** None

**MOTION PASSES****Item #2**

**BOA-23-10300142:** A request by James Wende for a 3' variance from the minimum 5' side setback requirement to allow a detached garage to be 2' from the side property line, 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)

Staff stated 20 notices were mailed to property owners, 1 returned in favor, 0 returned in opposition, and Oak Park Neighborhood Association is in favor.

James Wende, applicant, stated the purpose of this request allow for the demolish and reconstruction of the existing garage. He stated the new garage would have gutters installed.

**No Public Comment****Motion**

A motion was made by Commissioner Ozuna. Regarding Case No. **BOA-23-10300142**, I move that the Board of Adjustment grant a request for a 3' variance from the minimum 5' side setback requirement to allow a detached garage to be 2' from the side property line to include gutters, situated at 306 East Nottingham Drive, applicant being James Wende, 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 setbacks to provide spacing between properties. The applicant is requesting a variance to the side setback to allow a detached garage to be 2' from the side property line. Staff finds this distance is suitable, as it will not impose on the public interest of the adjacent neighbor by being too close to the shared property line, water runoff will not impose, and risk of fire spread is mitigated. Additionally, the current detached garage is non-conforming and has not been contrary to the public interest.**

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 limited side yard space for egress and ingress. The applicant is replacing an existing detached garage, which was constructed in 1947, prior to the current setback regulations. If the literal enforcement of the ordinance was applied, the applicant would need to abide by the minimum 5' side setback requirement. This would result in an unnecessary hardship, as building access will be limited and rear yard space would be reduced.**

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 structures and property lines. The detached garage will be 2' from the side property line, which observes the spirit of the ordinance 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 detached garage will maintain 2' from the side property line, which is not likely to alter the essential character of the district. The replacement of the detached garage that currently is non-conforming and is closer to the side property line than the newly anticipated structure. The request will not injure adjacent properties or 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 limited side yard space for egress and ingress. The circumstances do not appear to be merely financial.**

The motion was seconded by Commissioner Cruz.

**Favor:** Ozuna, Cruz, Spielman, Menchaca, Zuniga, Manna, Benavides, Bonillas, Oroian

**Opposed:** None

**MOTION PASSES**

**Items #4**

**BOA-23-10300187**: A request by Killen, Griffin & Farrimond, PLLC for a 25 parking spaces variance from the minimum 46 parking spaces to allow 21 parking spaces, located at 1601 Buena Vista Street and 1615 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 19 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and Historic Westside Residents Neighborhood Association is in favor.

Emilie Weissler, representative, the existing senior living apartments have been in existence since 1985. The purpose of this request is to allow for reducing in parking from 46 parking spaces to 21 parking spaces.

**Public Comment****Voicemail**

Leticia Sanchez, Historic Westside Residents Neighborhood Association, spoke in favor.

**Motion**

A motion was made by Commissioner Spielman. Regarding Case No. **BOA-23-10300187**, I move that the Board of Adjustment grant a request for 25-parking spaces variance from the minimum 46 parking spaces to allow 21-parking spaces, situated at 434 Adams Street, applicant being Fishpond Living at Buena Vista LP, 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 25 parking spaces variance from the minimum 46 parking spaces to allow 21 parking spaces. Due to the limited area to add parking spaces, the variance request does not appear to be contrary to the public interest.**
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*  
**A literal enforcement of the ordinance would result in having to add additional parking spaces which would result in an unnecessary hardship, as there no additional area to do so.**
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 additional parking spaces cannot be added due to the limited area.**

**Commissioner Vasquez joined the meeting via web ex.**

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 alter the essential character of the district as there is no additional space to add the additional parking spaces on the 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, such as the size of the existing building and lot parking area.**

The motion was seconded by Commissioner Zuniga.

**Favor:** Spielman, Zuniga, Menchaca, Cruz, Manna, Benavides, Ozuna, Vasquez, Bonillas, Oroian  
**Opposed:** None

**MOTION PASSES****Item #10**

**BOA-23-10300198:** A request by Orfa Trevino for 1) a 1,125 square foot variance from the minimum 4,000 square foot lot size to allow development on a 2,875 square foot lot, 2) a 1' variance from the minimum 5' side setback requirement to allow a structure to be 4' from the side property lines, 3) a 10' variance from the minimum 35' lot width requirement to allow a lot to be 25', and 4) a variance from the maximum 50% impervious cover requirement to allow the front yard to exceed the maximum 50% impervious cover, located at 135 Wilmot Street 1. Staff recommends approval. (Council District 5) (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, 7 returned in opposition with 7 in opposition outside the 200-foot radius, and Prospect Hill Neighborhood Association is in favor.

Orfa Trevino, applicant, stated she is proposing to develop a 2-story residential home on the subject property. She stated she is agreeable to amending request to not exceed the 50% front yard to impervious cover.

**No Public Comment****Motion**

A motion was made by Commissioner Manna. Regarding Case No. **BOA-23-10300198**, I move that the Board of Adjustment grant a request for 1) a 1,125 square foot variance from the minimum 4,000 square foot lot size to allow development on a 2,875 square foot lot, 2) a 1' variance from the minimum 5' side setback requirement to allow a structure to be 4' from the side property lines, 3) a 10' variance from the minimum 35' lot width requirement to allow a lot to be 25', situated at 135 Wilmot Street, applicant being Orfa Trevino, 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 served by minimum lot sizes and widths to prevent the overcrowding of development into smaller lots, setback requirements to provide spacing between structures, and impervious coverage requirements to allow water penetration into the surface. The applicant is requesting a variance to deviate from these minimum requirements, which are demonstrated to not be contrary to the public interest. A 1,125 square foot variance to allow a lot to be 2,875 square and a 10' variance to allow a lot width of 25' provides for the development of a vacant lot. Further, a 1' variance to allow a 4' side setback allows for suitable spacing of structures and space for routine maintenance.**

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

**In this case, the lot dimensions of the subject property are the special condition. Per the Bexar County Appraisal District, the narrow lot has a depth of 115', width of 25', and is 2,875 square feet. The development of a single-family home cannot be successfully completed without the granting of all variances. An unnecessary hardship will be presented by having the applicant alter construction plans, which could drastically reduce square footage of the dwelling or lead to the structure potentially imposing into the front or rear setbacks. Another special condition of the area is the use across the street. Upon site visits, staff observed a restaurant directly across the street, which may cause the traffic from that establishment to filter onto Wilmot Street. The applicant will be forced to park in the public right of way which can lead to an uptick in traffic along this local road.**

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 intent of the code is to prevent overcrowding into smaller lots, provide consistent patterns in development, and prevention of vehicles from obstructing the right of way. The spirit of the ordinance will be observed, as the applicant 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 structure will have the deviated building requirements. These variances will not substantially injure the appropriate use of adjacent conforming properties or alter the essential character of the district. Upon site visits, staff observed the block face was composed of one-story single-family dwellings, all constructed on similar lot sizes with reduced widths. Most of the homes in this area were constructed prior to current building regulations, so the requests will not directly interfere with the neighborhood fabric and won't detract from the character of the community.**

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 lot dimensions of the property.**

The motion was seconded by Commissioner Zuniga.

**Favor:** Manna, Zuniga, Spielman, Menchaca, Cruz, Benavides, Ozuna, Vasquez, Bonillas, Oroian  
**Opposed:** None

## **MOTION PASSES**

### **Item #11**

**BOA-23-10300200:** A request by Salvador Garcia for 1) a 3' variance from the minimum 5' side setback requirement to allow an attached carport to be 2' from the side property line, 2) a 7'10" variance from the minimum 15' driveway clear vision to allow a 7'2" driveway clear vision, and 3) a 1' special exception from the maximum 5' fence height to allow a 6' predominantly open fence in the front property line, located at 1319 Flanders Avenue. Staff recommends approval. (Council District 5) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 32 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition. The subject property is not located within a Neighborhood Association.

Salvador Garcia, applicant, stated he was unaware a permit was needed. He built this carport for his dog. He stated the carport is about 2 feet away from his neighbor and neighbor has no concerns as the water runoff as gutters would be installed and would flow onto his property and the alley. He has 3 letters in support from surrounding property owners. He further stated if asked to reduce the construction his cars will not fit.

### **No Public Comment**

### **Motion**

A motion was made by Commissioner Cruz. Regarding Case No. **BOA-23-10300200**, I move that the Board of Adjustment grant request for a 1' special exception from the maximum 5' fence height to allow a 6' predominantly open fence in the front property line, situated at 1319 Flanders Avenue, applicant being Salvador Garcia, 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, located in the front property line. If granted, staff finds the request would be in harmony with the spirit and purpose of the ordinance.**
- B. *The public welfare and convenience will be substantially served.*  
**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 property line and is exceeding the maximum height requirement by 1'. 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.**
- 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 located in the front property line of the subject property appear to not alter the character of the district as there are other fences of this type in the area.**

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

**The requested special exception will not weaken the general purpose of the district. The requested special exception will not weaken the use of the single-family dwelling.**

The motion was seconded by Commissioner Manna.

**Favor:** Cruz, Manna, Spielman, Menchaca, Zuniga, Benavides, Ozuna, Vasquez, Bonillas, Oroian  
**Opposed:** None

## **MOTION PASSES**

### **Motion**

A motion was made by Commissioner Cruz. Regarding Case No. **BOA-23-10300200**, I move that the Board of Adjustment grant a request for 1) a 3' variance from the minimum 5' side setback requirement to allow an attached carport to be 2' from the side property line, 2) a 7'-10" variance from the minimum 15' driveway clear vision to allow a 7'-2" driveway clear vision, situated at 1319 Flanders Avenue, applicant being Salvador Garcia, 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 3' variance from the minimum 5' side setback and a 7'-10" variance from the minimum 15' clear vision requirement to allow a fence to be 7'-2" from the front driveway. In this case, the predominately open fence does not impede vehicles from entering or exiting the property. Also, the 2' setback will have to follow all permitting requirements and leaves room for maintenance. Staff finds that this request is not contrary as this distance does not propose any safety issues.**

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 the 3' side setback with no overhang and the fence to meet the minimum 15' clear vision requirement from the front driveway. This would result in an unnecessary as a vehicle would have less room for entering/exiting and the fence is existing.**

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

**The carport is currently 2' from the side setback and the fence is currently 7'-2" from the front driveway. Staff finds the spirit of the ordinance will be observed and substantial justice will be done with the requested variance as adequate distance is present. If granted, the side setback will be 2' from the side setback and the clear vision distance will be 7'-2" from the front driveway, which is not likely to alter the essential character of the district as other fences were seen in the immediate area with similar clear vision distances and the carport leaves enough separation from the side 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.*

**If granted, the side setback will be 2' from the side setback and the clear vision distance will be 7'-2" from the front driveway, which is not likely to alter the essential character of the district as other fences were seen in the immediate area with similar clear vision distances and the carport leaves enough separation from the side property line.**

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 do not appear to be merely financial. The fence line is established in the area in the current position and the carport will have a reduced area to enter/exit a vehicle.**

The motion was seconded by Commissioner Manna.

**Favor:** Cruz, Manna, Spielman, Menchaca, Zuniga, Benavides, Ozuna, Vasquez, Bonillas, Oroian  
**Opposed:** None

## **MOTION PASSES**

### **Items #5**

**BOA-23-10300188:** A request by Sergio Ireta for 1) a 17' variance from the minimum 20' garage entry setback to allow a garage to have a 3' entry on the side setback and 2) a 7'3" variance from the minimum 15' clear vision requirement, to allow a fence to be 7'9" from the side yard driveway curb, located at 539 El Monte Boulevard. Staff recommends denial. (Council District 1) (Joseph Leos, Planner (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department)

Staff stated 3 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and no response from Northmoor Neighborhood Association.

Sergio Ireta, applicant, stated during construction he was informed he needed a permit. Once informed, he proceeded to apply for permit at which he was denied and recommended to apply for a variance. He stated the purpose of this request is to allow for the garage with a fence. He stated he agrees with amending to 2" from 20' variance.

### **No Public Comment**

### **Motion**

A motion was made by Commissioner Manna. Regarding Case No. **BOA-23-10300188**, I move that the Board of Adjustment grant a request for 1) a 17' variance from the minimum 20' garage entry setback to allow a garage to have a 3' entry on the side setback and 2) a 7'-3" variance from the minimum 15' clear vision requirement to allow a fence to be 7'-9" from the side yard driveway curb, situated at 539 El Monte Boulevard, applicant being Sergio Ireta, 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 interest of the public is depicted by the enforcement of garage setbacks to ensure that vehicles do not interfere with the Right of Way and minimum clear vision requirements to allow for the safety of oncoming vehicular traffic. The requested 17' variance to allow a garage to have a 3' entry provides adequate distance, as the vehicles will not interfere with the public right of way. Additionally, the imposing of the clear vision field is not contrary, as 7'-9" does allow for adequate sight for oncoming vehicles.**

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 location of trees in the rear yard, preventing the proposed garage to be pushed back to adhere to the ordinance. This would result in an unnecessary hardship, as the trees would need to be removed and rear yard space would be dramatically reduced. As for the clear vision, the special condition found on the property was the replacing of a previous non-conforming fence. A literal enforcement of the ordinance would result in an unnecessary hardship, as the fence would need to be altered and rear yard space would also be reduced.**

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. Substantial justice will be served as a 3' garage setback will not interfere with the Right of Way. Additionally, the allowance of the fence to be 7'-9" will not pose harm for vehicles reversing from the anticipated garage – if approved.**

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 requested variances will not injure the appropriate uses of adjacent properties and won't alter the essential character of the neighborhood as the requested garage setback and clear vision variances are highly unlikely to affect the public right of way and vehicular safety.**
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 location of the trees prevents the applicant from abiding the minimum 20' requirement. Moreover, the applicant was replacing an existing fence.**

The motion was seconded by Commissioner Benavides.

Chair Oroian offered a friendly amendment for a 2' variance from the minimum 20' garage setback and 5' variance from the 15' foot on the clear vision requirement.

Commissioner Manna and Commissioner Benavides accepted the friendly amendment.

**Favor:** Manna, Benavides, Spielman, Menchaca, Cruz, Zuniga, Ozuna, Vasquez, Bonillas, Oroian  
**Opposed:** None

## **MOTION PASSES**

**Commission went into recess at 2:04 pm and reconvened at 3:07 pm.**

### **Item #6**

**BOA-23-10300191:** A request by Juan Herrera for 1) a 7'10" variance from the minimum 10' front setback requirement to allow a carport to be 2'2" from the front property line, 2) a 3'6" variance from the minimum 5' side setback requirement to allow a carport to be 1'6" with 1' overhang with gutters from the side property line, and 3) a 4'8" variance from the minimum 15' clear vision requirement to allow a fence to be 10'4" from the curb, located at 515 South Spring Street. Staff recommends denial for the Front and Side Setback Variance. Staff recommends approval for the Clear Vision Variance. (Council District 5) (Richard Bautista Vazquez, Planner, (210) 207-0215, richard.bautistavazquez@sanantonio.gov, Development Services Department)

Staff stated 49 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and Prospect Hill Neighborhood Association is in favor.

Juan Herrera, applicant, stated the carport was built with the help of family. He was unaware a permit was needed until visited by city staff. He has been in contact with adjacent neighbor who has not expressed opposition. He agrees to install gutters to alleviate water runoff onto neighbors property.

### No Public Comment

### Motion

A motion was made by Commissioner Manna. Regarding Case No. **BOA-23-10300191**, I move that the Board of Adjustment grant a request for a 1) a 7'10" variance from the minimum 10' front setback requirement to allow a carport to be 2' 2" from the front property line with gutters, 2) a 3'6" variance from the minimum 5' side setback requirement to allow a carport to be 1' 6" with 1' overhang with gutters from the side property line, and 3) a 4' 8" variance from the minimum 15' clear vision requirement to allow a fence to be 10' 4" from the curb, situated at 515 South Spring Street, applicant being Juan Herrera, 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 setback requirements to prevent water runoff and adequate spacing between properties. The applicant is requesting a variance to the front setback and side to allow a detached carport to be 2' 2" from the front property line and 1' 6" with 1' overhang with gutters from the side property line. The carport in its current location has adequate spacing from the side and front property line. The applicant is also requesting a clear vision variance to allow an existing fence to be 10' 4" from the curb. Staff finds that this request will not be contrary to the public interest as this is an acceptable distance and the fence is made of predominately open materials.**

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

**Staff finds special conditions on the subject property. The current size of the lot limits the development of a carport. Meeting the required setbacks will negatively affect its size and use. A literal enforcement of the ordinance would result in the applicant altering the fence to meet the minimum 15' clear vision requirement for the driveway. This would result in an unnecessary hardship as the fence is existing and there is limited spacing in the front yard to comply with the requirement.**

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 granting of the front and side setback variances may observe the spirit of the ordinance, the lot in its current size limits the development of a carport. The clear vision request to allow a fence to be 10' 4" from the curb will observe the spirit of the ordinance by providing a safe distance between the two points, allowing vehicular traffic to not be obstructed.**

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 carport will be 2' 2" from the front property line and 1' 6" (with 1' overhang with gutters) from the side property line. The distance of the carport from adjacent property is reasonable and the installation of gutter will mitigate the water runoff. The request will not alter the essential character of the district. If granted, the clear vision distance will be 10' 4" from the curb. This distance of the fence is not likely to alter the essential character of the district as other fences in the area were observed.**

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 spacing on the property. Meeting the setbacks required will negatively affect the use the of carport. 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 having a small front yard.**

The motion was seconded by Commissioner Zuniga.

**Favor:** Manna, Zuniga, Spielman, Menchaca, Cruz, Benavides, Ozuna, Vasquez, Bonillas, Oroian  
**Opposed:** None

## **MOTION PASSES**

### **Item #15**

**BOA-23-10300199:** An appeal by Manjot Sohi of the Administrator's decision to revoke the short-term rental permit, located at 3602 Manoway Bay. Staff recommends denial. (Council District 3) (Ashley Leal, Senior Planner (210) 207-6311, Ashley.Leal@sanantonio.gov, Development Services Department)

Staff stated 32 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and no registered Neighborhood Association within 200’.

Manjot Sohi, applicant, stated this property is owned by her cousin and was convinced to rent it from him with the intent of operating a Short-Term Rental back in September 2021. She stated she currently has a wedding production business and used this opportunity as another source of income. Unfortunately, due to travel she was unaware of the collection notices received by the city. Upon returned she contacted city representatives to submit for payment to bring her to current.

### **No Public Comment**

### **Motion**

A motion was made by Commissioner Benavides. Regarding Case No. **BOA-23-10300199**, I move that the Board of Adjustment grant the appeal for the property, situated at 3602 Maoway Bay, applicant being Manjot Sohi, because the information provided by the applicant shows that City staff made an error in revoking the Short-Term Rental permit.

The motion was seconded by Commissioner Zuniga.

**Favor:** Benavides, Cruz

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

### **MOTION FAILS**

#### **Item #7**

**BOA-23-10300192:** A request by Jacob Dady for a 3’5” variance from the minimum 5’ side setback to allow an accessory dwelling with overhang to be 1’7” from the side property line, located at 311 Eagleland Drive. Staff recommends denial. (Council District 1) (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, 11 returned in opposition, and no response from King William Neighborhood Association.

Christopher Gill, applicant, stated he would like to clarify they are discussing the adjustment of the overhang only. He stated he has been working closely with the Historic staff on this development and were able to find a workable solution. The existing 16” overhang has now been reduced to 12” which has been approved by HDRC (Historic and Design Review Committee). He further stated they have added a fire rated wall along with gutters so water runoff would be directed onto the street. He stated he would like to express his concern with possible alternation as this would or may cause that he presents his case again to HDRC to present changes in hopes for approval which would be costly.

## Public Comment

### In Person

Jennifer Mowery, spoke in opposition.

### Motion

A motion was made by Commissioner Ozuna. Regarding Case No. **BOA-23-10300192**, I move that the Board of Adjustment grant a request for a 3'-5" variance to include the overhang and gutters from the minimum 5' side setback to allow an accessory dwelling with overhang to be 1'-7" from the side property line, situated at 311 Eagleland Drive, applicant being Christopher Gill, 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:

- 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 dwelling to be 1' 7" from the side property line, which is not contrary to the public interest.**
- 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 accessory dwelling 5' from the side setback, which would result in an unnecessary hardship as the accessory dwelling would require the square footage to be reduced to meet the setback requirements.**
- 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' 7" 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.**
- 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.**
- 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' 7" 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.

Chair Oroian offered a friendly amendment from a 3' variance from the minimum side to allow for an accessory dwelling unit with gutters and overhang to be 2' from the side property line.

Friendly amendment was accepted by Commissioner Ozuna and Commissioner Manna.

**Favor:** Ozuna, Manna, Spielman, Menchaca, Cruz, Zuniga, Benavides, Vasquez, Bonillas, Oroian

**Opposed:** None

## **MOTION PASSES**

### **Item #8**

**BOA-23-10300193:** A request by Martin Parra for 1) a 4'11" variance from the minimum 5' side setback requirement to allow a detached carport to be 1" from the side property line, 2) a 3'2" variance from the minimum 10' front setback to allow a detached carport with a 6'10" front setback, and 3) a 5'4" variance from the minimum 15' clear vision requirement to allow a fence to be 9'8" from the front yard driveway curb, located at 3839 Motes Drive. Staff recommends approval for the Clear Vision Variance. Staff recommends denial for the Front and Side Setback Variances. (Council District 5) (Joseph Leos, Planner (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department)

Staff stated 39 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and no response from Los Jardines Neighborhood Association.

Martin Parra, applicant, stated the purpose of this request is to maintain carport from protection of his vehicles. A permit was not pulled as he was unaware it was required. He does not feel this would negatively impact the neighborhood as there are other neighbors with similar to his carport.

### **No Public Comment**

**Motion**

A motion was made by Commissioner Manna. Regarding Case No. **BOA-23-10300193**, 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 a detached carport to be 1" from the side property line, 2) a 3'-2" variance from the minimum 10' front setback to allow a detached carport with a 6'-10" front setback, and 3) a 5' 4" variance from the minimum 15' clear vision requirement, to allow a predominately opened fence to be 9'-8" from the front yard driveway curb, situated at 3839 Motes Drive, applicant being Martin Parra, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

**The public interest is defined as the general health, safety, and welfare of the public. In this case, the public interested is represented by setback requirements to prevent storm water runoff and routine maintenance without trespass. The applicant is requesting a variance to the side and front setback to allow a detached carport to be 1" from the side property line and 6'-10" from the front property line. These distances provide adequate spacing, and water runoff will not impose on the adjacent neighbor, which are both not contrary to the public interest. The 5'-4" variance would leave 9'-8" clear vision using a predominately opened fence which will not be contrary to the public interest as is leaves suitable room for backing out into a local street.**

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

**The special condition on the subject property is the narrowness of the lot and fence line on the property. The applicant would need to shift the carport to maintain the required distance, which would result in an unnecessary hardship, as front yard space would be reduced. Furthermore, the fence line on the property and surrounding area have established the current clear vision distance and the property owner would have to move the fence back further then the established line in the area.**

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 side and front setback appear to observe the spirit of the ordinance as the current distances are suitable to the adjacent property and shared property lines. Additionally, the fence is currently 9'-8" from the front driveway. Staff finds the spirit of the ordinance will be observed and substantial justice will be done with the requested variances as adequate distance are presented.**

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

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

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

**If granted, the carport will maintain its current side and front setback distances, which is not likely to alter the essential character of the district or injure neighboring conforming properties. The clear vision variance will not alter the essential character of the district as the established front yard fence line is established with the current clear vision measurement.**

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

**Staff finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, such as the size of the lot. The location of the front yard fence is where it has been historically on the lot and surrounding area.**

The motion was seconded by Commissioner Cruz.

**Favor:** Manna, Cruz, Spielman, Menchaca, Zuniga, Benavidez, Ozuna, Vasquez, Bonillas, Oroian  
**Opposed:** None

## **MOTION PASSES**

### **Item #9**

**BOA-23-10300197:** A request by JoAnn Galvez for 1) a 4' special exception from the NCD-5 maximum 2' height to allow a 6' privacy fence along the front yard, 2) a variance from the NCD-5 to allow a gate structure across the driveway, and 3) a 1'8" variance from the minimum 15' clear vision requirement to allow a fence to be 13'4" from the front yard driveway curb, located at 935 Aganier Avenue. Staff recommends denial for the Neighborhood Conservation District Variance and Special Exception. Staff recommends approval for the Clear Vision Variance. (Council District 1) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 27 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and Beacon Hill Neighborhood Association requested a continuance.

JoAnn Galvez, applicant, stated the purpose of the privacy fence is for safety purposes. She was informed by Code Compliance that she did not need a permit to install a fence. The adjacent home has had squatters living in the vacant structure and they have trespassed onto her property. She stated she has made expressed her concerns to the homeowner. Due to the high volume of squatters, she has had to invest in another form of safety as she lives alone with her special needs son.

**Public Comment**

**Voicemail**

Sydney Ryden, spoke in favor.

Daniel Hubbeling, Beacon Hill Neighborhood Association, requested a continuance until after August 14<sup>th</sup> so she can meet the neighborhood association to further discuss.

**In Person**

Florence Cox, spoke in opposition.

**Motion**

A motion was made by Chair Oroian to continue Case No. **BOA-23-10300197** until September 11, 2023, and was seconded by Commissioner Manna.

A verbal was vote was taken and all voted in affirmative.

**MOTION PASSES**

**Item #12**

**Commissioner Cruz exited meeting at 5:22 pm**

**BOA-23-10300205**: A request by Colin Hardee for a 2' variance from the maximum 8' fence height to allow a 10' privacy fence in the rear property line, located at 3443 Hunters Circle Street. Staff recommends denial. (Council District 8) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 21 notices were mailed to property owners, 1 returned in favor, 0 returned in opposition, and no response from Neighborhood Association.

Colin Hardee, applicant, stated he erected this privacy barrier as a form of protection from his neighbor. A permit was not pulled because he built these walls rather than a privacy fence. Unfortunately, due to disagreements with his adjacent neighbor, he feels these walls would serve a protection and safety for his family.

**No Public Comment**

**Motion**

A motion was made by Commissioner Ozuna. Regarding Case No. **BOA-23-10300205**, I move that the Board of Adjustment grant a request for a 2' variance from the maximum 8' fence height, limited to the site plan that was presented as part of the applicant's presentation to be delineated by the red area that is shown on the site plan as described in Section 35-514, to allow a 10' privacy fence in the rear property line, situated at 3443 Hunters Circle, applicant being Colin Hardee, 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 10' privacy fence in the rear property line. The variance is not contrary to the public interest as the 10' privacy fence would create security and privacy for the subject and adjacent properties.**
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*  
**A literal enforcement of the ordinance would mean that the fence may only be installed at the maximum 8' in height. This property requires additional security and privacy due to elevation changes on the adjacent property leading to an unnecessary hardship should the variance be denied.**
3. *By granting the variance, the spirit of the ordinance will be observed, and substantial justice will be done.*  
**The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. In this case, the spirit of the ordinance would be observed, as the 10' privacy fence will only be located along in the rear property line and delineated by the site plan provided by the applicant and is being requested to provide security for the 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.*  
**The proposed 10' privacy fence in rear property line will not substantially injure the appropriate use of adjacent conforming property, as the 10' fence will provide security for the property and residents.**
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 10' privacy fence will provide security for the property.**

The motion was seconded by Commissioner Manna.

Chair Oroian offered a friendly amendment of a free supporting trellis structure that exists 12" from the property line.

Commissioner Ozuna stated the friendly amendment accepted is a free-standing trellis structure that is not attached to the fence no less than 12” from the property line as delineated in the exhibit the applicant provided as part of his application. Commissioner Manna accepted the friendly amendment.

**Favor:** Ozuna, Manna, Spielman, Menchaca, Zuniga, Benavides, Vasquez, Bonillas, Oroian  
**Opposed:** None

## **MOTION PASSES**

### **Item #13**

**BOA-23-10300190:** A request by Edgar Argaon-Torres for an appeal of the Administrator's decision to revoke a short-term rental permit, located at 115 Drake Avenue. Staff recommends denial. (Council District 5) (Emily Garcia, Planner, (210) 207-0271, Emily.Garcia@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 Collins Garden Neighborhood Association.

Edgar Argaon-Torres, applicant, stated he was under the understanding AirBnB was paying the taxes. It was not until he received notification from the City on March 15, 2023, that he was delinquent. He stated he immediately contacted city staff to make arrangements to submit payment and bring him to current. He stated in April 2023 he was put on a payment plan for 90 days. He was unaware that he was to submit a payment every month within the 90 days. Unfortunately, he skipped his May payment but submitted full payment in June.

### **No Public Comment**

### **Motion**

A motion was made by Commissioner Benavidez. Regarding Case No. **BOA-23-10300190**, I move that the Board of Adjustment grant the appeal for the property, situated at 115 Drake Avenue, applicant being Edgar Argaon-Torres, because the information provided by the applicant shows that City staff made an error in revoking the Short-Term Rental permit.

The motion was seconded by Commissioner Manna.

**Favor:** Benavides, Menchaca, Ozuna, Bonillas, Oroian  
**Opposed:** Spielman, Zuniga, Manna, Vasquez

## **MOTION FAILS**

### **Item #14**

**BOA-23-10300194:** An appeal by Conrad Gardner of the Administrator's decision to revoke the short-term rental permit, located at 736 Saldana Street. Staff recommends denial. (Council District 5) (Ashley Leal, Planner (210) 207-6311, Ashley.Leal@sanantonio.gov, Development Services Department)

Staff stated 33 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and no response from Palm Heights Neighborhood Association.

Cassie Gardner, applicant, stated she was unaware of the monthly reporting. Upon receiving notification of delinquent taxes by email, she contacted Finance Department. She has not submitted payment pending the outcome today's hearing.

**No Public Comment**

**Motion**

A motion was made by Commissioner Manna. Regarding Case No. **BOA-23-10300194**, I move that the Board of Adjustment grant the appeal for the property, situated at 736 Saldana Street, applicant being Conrad Gardner, because the information provided by the applicant shows that City staff made an error in revoking the Short-Term Rental permit.

The motion was seconded by Commissioner Benavidez.

**Favor:** Manna, Benavides, Spielman, Menchaca, Ozuna, Bonillas, Oroian

**Opposed:** Zuniga, Vasquez

**MOTION FAILS**

**Item #16**

Approval of the minutes from the Board of Adjustment meeting on July 24, 2023.

A motion was made by Commissioner Manna and seconded Commissioner Zuniga for approval of the July 24, 2023, minutes as presented.

A verbal was vote was taken and all voted in affirmative.

**MOTION PASSES**

**Adjournment**

There being no further business, the meeting was adjourned at 6:49 PM.

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

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

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