

City of San Antonio



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

Monday, September 25, 2023

1:00 PM

1901 S. Alamo

1:07 PM – Call to Order

Spanish Interpreter presented.

Roll Call – Present: Brereton, Picasso, Dean, Cruz, Zuniga, Manna, Vasquez, Bragman, Ozuna, Bonillas, Benavides, 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 #5

BOA-23-10300216 (Continued from BOA 9.18.23): A request by Miguel Gomez for a 4’-11” variance from the minimum 5’ side setback requirement to allow a structure to be 1” from the side property line located at 715 Westmoreland Drive. Staff recommends denial. (Council District 1) (Joseph Leos, Planner (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department)

Staff stated 24 notices were mailed to property owners, 0 returned in favor, 1 returned in opposition, and no response from North Central Neighborhood Association.

Miguel Gomez, applicant, stated the purpose of this variance request is to allow for storage for his work vehicles. He stated his work vehicles have been broken into and work tools were stolen.

No Public Comment

Motion

The motion was made by Commissioner Bragman. Regarding Case No. **BOA-23-10300216**, I move that the Board of Adjustment grant a request for a 4'-11" variance from the minimum 5' side setback requirement to allow a structure to be 1" from the side property line, situated at 715 Westmoreland Drive, applicant being Miguel Gomez, 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 the adjacent neighbor for safety. Staff finds the requested variance is an allowable distance and coverage, as it will not affect the adjacent neighbor by being too close to the shared property line and risk of fire spread is mitigated.
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 accessory structure to adhere by the rear setback requirements. This would result in an unnecessary hardship, as it appears all structures cannot be altered.
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 in this case, as the applicant is 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.*
The requested variances would not injure the appropriate use of adjacent conforming properties, as other structures in the immediate appeared to be within the setback 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 finds the plight of the owner of the property for which the variance is sought is due to unique circumstances, such as limited spacing on the property.

The motion was seconded by Commissioner Manna.

Commissioner Manna offered a friendly amendment to a 2' setback from the side yard neighboring property.

Commissioner Bragman accepted amendment if applicant can comply.

Mr. Gomez stated he can try to comply with the 2' side setback amendment however it would be difficult being that he has 4 large work vehicles that he would be parking in there.

Vice Chair Ozuna stated the initial motion stands and will be voted on.

Favor: Picasso, Benavides, Zuniga, Vasquez, Bragman, Ozuna

Opposed: Brereton, Dean, Cruz, Manna

MOTION FAILS

Vice Chair Ozuna asked if a member from the prevailing side would like to offer a substitute motion.

Commissioner Manna stated he would support a 2' side yard setback from the neighboring property. Commissioner Brereton stated he would be in support of the subtitle motion.

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

MOTION PASSES

2nd Motion

A motion was made by Commissioner Manna. Regarding Case No. **BOA-23-10300216**, I move that the Board of Adjustment granted a request for a 3' variance from the minimum 5' side rear setback to allow for a structure to be 2' from the side property line, situated at 715 Westmoreland Drive, applicant being Miguel Gomez, 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.

The motion was seconded by Commissioner Zuniga.

Favor: Manna, Zuniga, Brereton, Picasso, Benavides, Dean, Cruz, Vasquez, Bragman, Bonillas, Ozuna

Opposed: None

MOTION PASSES

Commissioner Oroian joined meeting via Web Ex at 1:35 pm

Item #6

BOA-23-10300241 (Continued from BOA 9.18.23): A request by QT South LLC for 1) a 25' variance from the maximum 50' sign height allowance, to allow a 75' tall single tenant sign, and 2) a 224 square feet variance from the maximum 375 square feet allowance, to allow a single tenant sign to be 599 square feet, located at 13130 East IH-10. Staff recommends denial. (Council District 2) (Joseph Leos, Planner (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department)

Staff stated 2 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and no registered neighborhood association within 200' radius of subject property.

Kathy Garland, representative, stated the purpose of this request is to allow for high rise sign with dual price cabinet. As previously stated, the site is at the edge of city limits. They are in a commercial area that caters to interstate travel. She stated they are a multi-use facility that includes vehicle fueling, truck fueling and full-service kitchen. She stated they are open to alternate recommendations.

Public Comment**Voicemail**

Bonnie Connor, spoke in opposition.

Collen Waguespack, spoke in opposition.

Edward Rodriguez, Senior Sign Inspector, stated he did a site visit and would support the 50' sign height allowance as per code.

Rebuttal

Kathy Garland, representative, stated they are agreeable to 60'. She feels the square footage is more significant being that they are a multi-use in one facility.

Motion

A motion was made by Commissioner Oroian. Regarding Case No. **BOA-23-10300241**, I move that the Board of Adjustment grant a request for a 75' square feet variance from the maximum 375 square feet allowance to allow a single tenant sign to be up to 450 square feet, situated at 13130 East IH 10, applicant being QT South, 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 necessary because strict enforcement of this article prohibits any reasonable opportunity to provide adequate signs on the site, considering the unique features of a site such as its dimensions, landscaping, or topography; or*
2. *A denial of the variance would probably cause a cessation of legitimate, longstanding active commercial use of the property.*

The property currently qualifies for a sign 50' in height/375 square feet for a single-tenant sign, The applicant is requesting a variance to erect the sign to be up to 450 square feet to safely allow trucks to safely view and exit. The variance is necessary in this case.

After seeking one or more of the findings set forth in subparagraphs (1) and (2), the Board finds that:

A. Granting the variance does not provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.

The proposed sign does not appear to provide a special privilege as there are other signs of this height or square footage in the surrounding area.

B. Granting the variance will not have a substantially adverse impact on neighboring properties.

The proposed variance will not have an adverse impact on neighboring properties as there are other signs of this height or square footage and appear similar to the sign regulation standards.

C. Granting the variance will not substantially conflict with the stated purposes of this article.

A sign exceeding the 50' in height /375 square feet will not substantially conflict with the sign regulations standards.

The motion was seconded by Commissioner Picasso.

Favor: Oroian, Picasso, Brereton, Benavides, Dean, Cruz, Zuniga, Manna, Bragman, Bonillas, Ozuna

Opposed: None

MOTION PASSES

Item #7

BOA-23-10300141: A request by Jamell Yarborough and David Schlenker for a 2' special exception from the maximum 6' fence height to allow an 8' privacy fence in the side and rear yard, located at 945 West Summit Avenue. Staff recommends denial. (Council District 1) (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 Beacon Hill Neighborhood Association. Staff stated Beacon Hill Neighborhood Association did submit their opposition this morning.

Jamell Yarborough, applicant, stated the surrounding neighbors, within 200' of his property, did submit their support for their fence. He stated there is no rule in the NCD (Neighborhood Conservation District) that opposes their fence being built within his property line or regulated a height. Due to the heavy activity in the alley, the height portion of the fence is in the back of the home facing the alley which not feel not offend his neighbors.

Public Comment

Voicemail

Daniel Hubbeling, Beacon Hill Neighborhood Association is in opposition.

Motion

A motion was made by Commissioner Bragman. Regarding Case No. **BOA-23-10300141**, I move that the Board of Adjustment grant a request for a 2' special exception from the maximum 6' fence height to allow an 8' privacy fence running east to west on the interior of the property, situated at 954 West Summit Avenue, applicant being Jamell Yarborough and David Schlenker, 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 fence height being requested is an 8' privacy fence running east to west on the interior of the property. 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 east to west on the interior of the property and is exceeding the maximum height requirement by 2' for the privacy fence. The fence will 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 in the side and rear yard of the subject property does not appear to alter the location for which the special exception is sought, as the abutting base zoning district is residentially zoned to the east and to the west along West Kings highway.
- 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 motion was seconded by Commissioner Manna.

Commissioner Manna added that the setback of the fence remains as indicated in the diagram. Commissioner Bragman accepted.

Favor: Bragman, Manna, Brereton, Picasso, Benavides, Cruz, Zuniga, Oroian, Bonillas, Ozuna
Opposed: Dean

MOTION PASSES

Item #8

BOA-23-10300233: A request by Orfa Trevino for 1) a 1'-4" variance from the minimum 5' side setback to allow a structure with 3'-8" side setbacks, and 2) a 2,125 square foot variance from the minimum 5,000 square foot to allow development on a 2,875 square foot lot, located at 165 North San Felipe Avenue. Staff recommends approval. (Council District 5) (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 no registered neighborhood association withing 200' radius of subject property.

Orfa Trevino, applicant, stated they are proposing to build a two-story single-family residence home on the subject property.

No Public Comment

Motion

A motion was made by Commissioner Cruz. Regarding Case No. **BOA-23-10300233**, I move that the Board of Adjustment grant a request for 1) a 1'-4" variance from the minimum 5' side setback to allow a structure with 3'-8" side setbacks, and 2) a 2,125 square foot variance from the minimum 5,000 square foot to allow development on a 2,875 square foot lot, situated at 165 North San Felipe Avenue, 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 to prevent the overcrowding of development into smaller lots and setback requirements to provide spacing between structures.

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

An unnecessary hardship will be presented by having the applicant alter construction plans, which could drastically reduce square footage of the dwelling or pursue a rezoning to “R-2” Single-Family Residential District.

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

In this case, the intent of the code is to prevent overcrowding into smaller lots and provide suitable spacing between properties. The spirit of the ordinance will be observed, as the applicant will be abiding by all other building requirements and construction has not begun.

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.

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 property owner 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 Benavides.

Favor: Cruz, Benavides, Brereton, Picasso, Dean, Zuniga, Manna, Bragman, Oroian, Bonillas, Ozuna

Opposed: None

MOTION PASSES

Commission went into recess at 2:48 pm and reconvened at 2:57 pm.

Commissioner Picasso left meeting at 2:48 pm

Commissioner Vasquez joined the meeting at 2:57 pm.

Item #9

BOA-23-10300248: A request by Kedra Segler for 1) a 663 square feet variance from the minimum 4,000 square feet requirement to allow development on a 3,337 square feet lot, 2) a 5' variance from the minimum 10' rear setback to allow a 5' rear setback, 3) a half story variance from the maximum 2.5 stories to allow a 3 story structure, 4) a 2' special exception from the maximum 6' height to allow an 8' rear and side yard fence, and 5) an 8' variance from the minimum 20' from the back of a sidewalk to allow a garage entry to be 12' from the front setback located at 110 Kearney Street. Staff recommends approval for Lot Size, Rear Setback, and Garage Entry Front Setback Variances. Staff recommends denial for Fence Height Special Exception and Half Story Variance. (Council District 1) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 35 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and Lavaca Neighborhood Association is in opposition.

Kedra Segler, applicant, stated she purchased the property in July 2023. The property is zoning "RM-4" which allow up to 4 units however she proposing to develop a duplex, 2 units. She stated there are similar development in the neighborhood. The adjacent home operates a business from their home which is the purpose of requesting an 8-foot fence on both sides of the property to increase the privacy and safety of the families in the homes. She is also requesting a 10-foot privacy fence along the back of the property to provide security from the container home that is situated on the property to the rear of the subject property. She stated she is in agreement with 8-foot fence.

Public Comment**In Person**

Alex Dominguez, spoke in opposition.

Rebuttal

Kedra Segler, stated there are 3 story townhomes and some metal container energy efficient homes in the neighborhood. She does not feel her development would negatively impact the neighborhood as this is improving and enhancing and making it more family oriented the neighborhood.

1st Motion – Variance

A motion was made by Commissioner Oroian. Regarding Case No. **BOA-23-10300248**, I move that the Board of Adjustment grant a request for 1) a 663 square feet variance from the minimum 4,000 square feet requirement to allow development on a 3,337 square feet lot, 2) a 2' variance from the minimum 10' rear setback requirement to allow a 8' rear setback, and 4) a 4' variance from the minimum 20' from the back of a sidewalk to allow a garage entry to be 16' from the front setback, situated at 110 Kearney Street, applicant being Kedra Adele Segler, 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.*
Staff finds that this request is not contrary to the public interest as the requested variances will not impact the safety and welfare of the public.
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 inability to develop on the property. The lot size limits the space to where a reduced rear setback while still meeting the “RM-4” 65% buildable area. The garage front setback will eliminate the ability to have a garage on the lot.
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. This variance will permit a reduced rear setback, garage setback and development on a substandard lot. The request appears to observe the spirit of the ordinance.
4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the zoning district in which the variance is located.*
No uses other than those allowed within the district will be allowed with this variance.
5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*
Staff does not find evidence that the requested variance would alter the essential character of the district. The property is part of the original 36 square miles of the City of San Antonio where smaller lots are commonly found.
6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial and are not due to or the result of general conditions in the district in which the property is located.*
Staff finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property. The circumstances do not appear to be merely financial.

The motion was seconded by Commissioner Bragman.

Favor: Oroian, Bragman, Brereton, Benavides, Cruz, Zuniga, Manna, Vasquez, Bonillas, Ozuna
Opposed: Dean

MOTION PASSES

2nd Motion – Special Exception

A motion was made by Commissioner Oroian. Regarding Case No. **BOA-23-10300248**, I move that the Board of Adjustment grant a request for a 2' special exception from the maximum 6' height to allow an 8' rear and side yard fence, situated at 110 Kearney Street, applicant being Kedra Adele Segler, 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 fence height being requested is an 8' fence in the rear and side yard. 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 rear and side yard and is exceeding the maximum height requirement by 2' for a fence. The fence will 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 in the rear and side yard of the subject property does not appear to alter the location for which the special exception is sought. The 8' fence height will not alter the essential character of the district.
- E. *The special exception will not weaken the general purpose of the district, or the regulations herein established for the specific district.*
The requested special exception will not weaken the general purpose of the district.

The motion was seconded by Commissioner Cruz.

Commissioner Bragman offered a friendly amendment to the 6' fence on the side 8' in rear property line. Commissioner Oroian accepted the friendly amendment.

Favor: Oroian, Brereton, Benavides, Cruz, Vasquez, Bragman, Bonillas, Ozuna

Opposed: Manna, Dean, Zuniga

MOTION FAILS

Item #10

BOA-23-10300249: A request by Solis Building & Development LLC for a variance to allow two separate structures on an “RM-4” that is less than one-third of an acre, located at 810 South Walters Street. Staff recommends denial. (Council District 2) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

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

Richard Solis, applicant, stated they are proposing to develop 2 units on the subject property. He stated the development would be like the units on 806 South Walters. After constructing the units on 806 South Walters, they proceeded to submit plans for the development and applying for permits when they were informed the ordinance had change in August 2022 and had to apply for a variance.

No Public Comment**Motion**

A motion was made by Commissioner Cruz. Regarding Case No. **BOA-23-10300249**, I move that the Board of Adjustment grant a request for a variance to allow two separate structures on an “RM-4” that is less than one-third of an acre, situated at 810 South Walters Street, applicant being Solis Building & Development 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.*
In this case, the public interest is defined by density requirements to prevent overcrowding on smaller lots. Staff finds this request is not contrary to the public interest as the applicant is abiding by all other setback requirements, which will not infringe on surrounding property owners.
- 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 alter their plans to abide by the recently changed UDC requirement.
- 3. By granting the variance, the spirit of the ordinance will be observed, and substantial justice will be done.*
Staff finds the spirit will be observed, as the applicant will be abiding by all other building requirements and has not begun construction. Additionally, this will allow for infill development of a vacant rear lot.

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 granting of this variance will not injure the appropriate use of adjacent conforming properties, as this type of development is not out of character with the surrounding zoning districts.

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 being less than one-third of acre. The circumstances do not appear to be merely financial.

The motion was seconded by Commissioner Oroian.

Favor: Cruz, Oroian, Brereton, Benavides, Zuniga, Manna, Vasquez, Bragman, Bonillas, Ozuna

Opposed: Dean

MOTION PASSES

Item #11

BOA-23-10300250: A request by Premier Team LLC for 1) a 5' variance from the minimum 20' rear setback to allow a 15' rear setback, and 2) 2,250 square feet variance from the minimum 4,000 square feet to allow development on a 1,750 square feet lot, located at 2920 Colima Street. Staff recommends approval for Rear Setback Variance. Staff recommends denial for Lot Size Variance. (Council District 5) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 42 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and no response from El Charro Neighborhood Association.

J. Michael Jeffords, applicant, stated there was an existing structure on the subject property. Upon remodeling, they were informed by the engineer the foundation could not be saved. Because a portion of the structure was removed, he proceeded with the demolition to ensure safety. Unfortunately, a permit was not pulled as he was unaware a permit was needed. After demolition, they were informed by Code Enforcement, they would have to apply for a variance to proceed with building.

No Public Comment

Motion

A motion was made by Commissioner Bragman. Regarding Case No. **BOA-23-10300250**, I move that the Board of Adjustment grant a request for 1) a 5' variance from the minimum 20' rear setback to allow a 15' rear setback, and 2) 2,250 square feet variance from the minimum 4,000 square feet to allow development on a 1,750 square feet lot, situated at 2920 Colima Street, applicant being Premier Team 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.*
Staff finds these requests are not contrary, as the reduced lot size will not increase density and the reduced rear setback will leave adequate room between properties.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
Since the lot does not meet the minimum lot size, the enforcement of the minimum rear setback of 20', the building square footage would be drastically 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. Staff finds the spirit of the ordinance will be observed, as the applicant is 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.*
Staff finds the requests will not injure the appropriate use of adjacent conforming properties and alter the essential character of the district, as other lots in the area appeared to not abide by the minimum lot size and rear setback 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 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 circumstances do not appear to be merely financial.

The motion was seconded by Commissioner Cruz.

Favor: Bragman, Cruz, Brereton, Benavides, Dean, Zuniga, Manna, Vasquez, Oroian, Bonillas, Ozuna

Opposed: None

MOTION PASSES

Item #12

This item will be heard no earlier than 3:00 pm.

BOA-23-10300243: An Appeal by Marcus Garza of the Administrator's decision to revoke the short-term rental permit, located at 716 Florida Street. Staff recommends denial. (Council District 2) (Ashley Leal, Senior Planner (210) 207-6311, Ashley.Leal@SanAntonio.gov, Development Services Department)

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

Marcus Garza, representative, stated they submit their application and paid all fees on September 22, 2021, but did not received permit on March 18, 2022. He stated it was his understanding the platform used for their posting were also collecting the taxes. When they contacted AirBnB, they were assured that reports were being filed with appropriate jurisdiction and forwarding taxes. They did not receive any letters nor emails of the revocation. Once permit was revoke, they have made several attempts to make contact with staff and finance to discuss and resolve this issue, unfortunately they were unsuccessful. They were successful in paying all debt online and submitted all reports. He stated he has visited with his surrounding neighbors who have all expressed their support.

No Public Comment

Motion

A motion was made by Commissioner Bragman. Regarding Case No. **BOA-23-10300243**, I move that the Board of Adjustment grant the appeal for the property, situated at 716 Florida Street, applicant being Marcus Garza, because the information provided by the applicant shows that City staff made an error in enforcing **Chapter 16, Article XXII Sec. 16-1110(d)** when revoking the Short-Term Rental permit.

Chapter 16, Article XXII Sec. 16-1110(d)

Failure to timely pay any applicable hotel occupancy tax is a violation of this section and shall result in permit revocation if arrearage is not paid within ninety (90) days of the issuance of a delinquency notice, in accordance with subsection 16-1111, revocation procedures.

The motion was seconded by Commissioner Benavides.

Favor: Bragman, Benavides, Brereton, Vasquez, Bonillas, Ozuna

Opposed: Dean, Cruz, Zuniga, Manna, Oroian

MOTION FAILS

Commissioner Bonillas left meeting at 5:08 pm

Item #13

This item will be heard no earlier than 3:00 pm.

BOA-23-10300245: An Appeal by Marcus Garza of the Administrator’s decision to revoke the short-term rental permit, located at 1214 Hays Street. Staff recommends denial. (Council District 2) (Ashley Leal, Senior 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 Dignowity Hill Neighborhood Association.

Marcus Garcia, applicant, as stated in the previous case he was led to believe all taxes were paid and reports were filed accordingly. He stated he has invested in this property to make it more highly energy efficient as well as make it very attractive. He has visited with the surrounding neighborhoods who have all expressed support.

No Public Comment

Motion

A motion was made by Commissioner Oroian. Regarding Case No. **BOA-23-10300245**, I move that the Board of Adjustment grant the appeal for the property, situated at 1214 Hays Street, applicant being Marcus Garza, because the information provided by the applicant shows that City staff made an error in enforcing **Chapter 16, Article XXII** when revoking the Short-Term Rental permit.

The motion was seconded by Commissioner Benavides.

Favor: Oroian, Benavides, Brereton, Cruz, Zuniga, Manna, Vasquez, Bragman, Ozuna

Opposed: Dean

MOTION PASSES

Item #14

Approval of the minutes from the September 11, 2023, meeting.

A motion was made by Commissioner Oroian and seconded Commissioner Cruz for approval of the September 11, 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 5:23 PM.

APPROVED BY: _____ or _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary