

## City of San Antonio



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

---

Monday, September 18, 2023

1:00 PM

1901 S. Alamo

---

1:04 PM – Call to Order

**Roll Call – Present:** Brereton, Picasso, Kaplan, Dean, Zuniga, Manna, Benavides, Vasquez, Cruz, Bonillas, Ozuna

**Absent:** Oroian

**Spanish Interpreter presented.**

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

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

**Item #1**

**BOA-23-10300223** (Continued from BOA 9/11/23): A request by Highland Homes for a 2' special exception from the maximum 6' fence height to allow an 8' fence on rear and side yard of multiple lots, located at 10003-10143 Harr Knoll and 10102-10330, 10362 Mitra Way. Staff recommends denial. (Council District 4) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 92 notices were mailed to property owners, 1 returned in favor, 1 returned in opposition, and no registered neighborhood association in this area.

Michael Whidden, Highland Homes, stated he submitted plans and applied for building permits. However as requested by the homeowner they built 8-foot fence to the rear of their property. In viewing the application for fence there is/was section to indicate the fence height. Once plans were approved and permits were issued, they began building.

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

The motion was seconded by Commissioner Cruz. Regarding Case No. **BOA-23-10300223**, I move that the Board of Adjustment grant a request for a 2' special exception from the maximum 6' fence height, as described in Section 35-514, to allow an 8' fence on rear of multiple lots, situated at 10003-10143 Harr Knoll and 10102-10330, 10362 Mirta Way, applicant being Highland Homes, 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. If granted, staff finds the request would be in harmony with the spirit and purpose of the ordinance as the fence would provide privacy and security to the properties.**
- B. *The public welfare and convenience will be substantially served.*  
**In this case, these criteria are represented by fence heights to protect property owners while still promoting a sense of community. The fence still serves the public welfare and convenience.**
- C. *The neighboring property will not be substantially injured by such proposed use.*  
**The fence will create enhanced security and privacy for the subject and adjacent properties.**
- 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 height in fence on the rear property line will not alter the essential character of the district, as they will create security and privacy for the subject properties.**
- 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 Kaplan.

**Favor:** Zuniga, Benavides, Vasquez, Bonillas, Ozuna

**Opposed:** Cruz, Kaplan, Picasso, Brereton, Dean, Manna

**MOTION FAILS**

**Item #2**

**BOA-23-10300203:** A request by Margarita Zamudio for 1) a 4'-9" variance from the minimum 5' side setback requirement to allow a carport to be 3" from the side property line and 2) a 4' variance from the minimum 10' front setback to allow a carport to be 6' from the front property line, located at 122 Overhill Drive. Staff recommends approval for front setback variance. Staff recommends denial for side setback variance. (Council District 7) (Richard Bautista-Vazquez, Planner (210)-207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

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

Margarita Zamudio, applicant, stated she would like to ask for an exception to allow for my carport to 1 foot instead of 5 feet from the fence. She stated the purpose of this carport was to allow for all her vehicle to enter the driveway. If carport is granted, she would install gutters along to alleviate water onto her neighbor's property.

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

A motion was made by Commissioner Manna. Regarding Case No. **BOA-23-10300203**, I move that the Board of Adjustment grant a request for a 4' variance from the minimum 10' front setback to allow a carport to be 6' from the front property line, situated at 122 Overhill Drive, applicant being Margarita Zamudio, 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 6' front setback which does not appear to be contrary to the public interest as there is adequate space remaining from the front street for the proposed structure.**
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*  
**Staff finds an unnecessary hardship for the front variance due the size of the lot. A carport cannot be built without obtaining a variance. The proposed structure will have ample space to extend into the front.**
3. *By granting the variance, the spirit of the ordinance will be observed, and substantial justice will be done.*  
**The requested variance is to allow a structure to be closer to the front. The request will observe the spirit of the ordinance because the proposed structure will still maintain a reasonable distance between the structure and the front property line.**

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

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

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

**Staff does not find evidence that the requested variances would alter the essential character of the district. There will be a remaining 6' from the front property line, therefore the request would not alter the essential character of the neighborhood.**

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

**The front setback variances are sought due to unique circumstances existing on the property such proposed addition needing more space due to the configuration of the lot. The variance request is not merely financial.**

The motion was seconded by Commissioner Kaplan.

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

**Opposed:** None

## **MOTION PASSES**

Vice Chair Ozuna called for a motion for the first variance request.

A motion was made by Commissioner Zuniga for a continuance until September 25, 2023, to allow the applicant to provide a rendering of the gutters.

Motion fails due to lack of second.

Vice Chair Ozuna call for a motion for the first variance request regarding the side setback.

A motion was made by Commissioner Kaplan. Regarding Case No. **BOA-23-10300203**, I move that the Board of Adjustment grant a request for a 4'-9" variance from the minimum 5' side setback requirement to allow a carport to be 3" from the side property line, situated at 122 Overhill Drive. The motion was seconded Commissioner Picasso.

Commissioner Brereton made a friendly amendment to allow for 3'9" variance with the inclusion of gutters.

Commissioner Kaplan and Commissioner Picasso accepted the friendly amendment.

**Favor:** Kaplan, Picasso, Brereton, Dean, Cruz, Manna, Benavides, Vasquez, Bonillas, Ozuna

**Opposed:** Zuniga

## **MOTION PASSES**

### **Item #3**

**BOA-23-10300214:** A request by Reyes Gallegos for 1) a variance to allow a corrugated metal fence in the front, side, and rear yard, 2) a 3' special exception from the maximum 3' fence height to allow a 6' solid screened fence in the front yard, 3) a 2' special exception from the maximum 6' fence height requirement to allow an 8' solid screened fence in the side and rear yard, 4) a 4'-11" variance from the minimum 5' side setback requirement to allow a carport to be 1" from the side property line, 5) a 9'-11" variance from the minimum 10' front setback requirement to allow a carport to be 1" from the front property line, and 6) a 10'-6" variance from the minimum 15' clear vision to allow a 4'-6" clear vision on 2 driveways, located at 8942 Portside Drive. Staff recommends denial. (Council District 4) (Joseph Leos, Planner (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department)

Staff stated 18 notices were mailed to property owners, 2 returned in favor, 0 returned in opposition, and no registered neighborhood association in this area.

Reyes Gallegos, applicant, purchased property in 1997 from neighbor. The wooden fence was replaced by this corrugated fence. Fence has been up for 4 years for safety purposes. He stated crime and drug activity has increased in this neighborhood and this fence gives them a form of safety and security.

### **No Public Comment**

### **Motion**

A motion was made by Commissioner Kaplan. Regarding Case No. **BOA-23-10300214**, I move that the Board of Adjustment grant a request for 1) a variance to allow a corrugated metal fence in the front, side, and rear yard 2) a 4'-11" variance from the minimum 5' side setback requirement to allow a carport to be 1" from the side property line, 3) a 9'-11" variance from the minimum 10' front setback requirement to allow a carport to be 1" from the front property line, and 4) a 10'-6" variance from the minimum 15' clear vision to allow a 4'-6" clear vision on 2 driveways, situated at 8942 Portside Drive, applicant being Reyes Gallegos, 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 permittable fence materials for uniformity within an established neighborhood, side and front setback requirements to prevent structures from being close to neighboring properties, and clear vision requirements to ensure safe vehicular traffic. The requested variances are not contrary to the public interest.**

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

**A literal enforcement of the ordinance would result in the applicant abiding by the permittable fence materials requirements, 5' and 10' setback requirements, and minimum 15' driveway clear vision. This would result in an unnecessary hardship, as the fence and structure appear to not allow for alterations.**

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 property currently has corrugated metal fencing material on all sides, a carport that is 1" from the side and front property lines, and a fence with a 4'-6" clear vision on both driveways. In this case, the spirit of the ordinance will be observed.**

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 property will continue having prohibited fencing material, 1" side and front setbacks for a carport, and a 4'-6" clear vision on both driveways. These variances will not injure the appropriate use of adjacent conforming properties and will 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, such as the location of the lot and security for the homeowner.**

The motion was seconded by Commissioner Manna.

Commissioner Manna offered a friendly amendment to variance #3) a 9'-11" variance from the minimum 10' front setback requirement to allow a carport to be 1" from the front property line. To consider leaving the carport on the front side so there is still parking available however it be situated behind city property line.

Commissioner Kaplan accepted the friendly amendment to exclude variance #5 of the original request, a 9'-11" variance from the minimum 10' front setback requirement to allow a carport to be 1" from the front property line to be considered as a separate motion.

**Favor:** None

**Opposed:** Kaplan, Manna, Picasso Brereton, Dean, Cruz, Zuniga, Benavides, Vasquez, Bonillas, Ozuna

## **MOTION FAILS**

### **2<sup>ND</sup> Motion**

A motion was made by Commissioner Kaplan. Regarding Case No. **BOA-23-10300214**, I move that the Board of Adjustment grant a request for a 9'-11" variance from the minimum 10' front setback requirement to allow a carport to be 1" from the front property line situated at 8942 Portside Drive, applicant being Reyes Gallegos.

The motion was seconded by Commissioner Manna.

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

**Opposed:** None

## **MOTION PASSES**

### **Item #4**

**BOA-23-10300216:** A request by Miguel Gomez for 1) a 4'-11' variance from the minimum 5' side setback requirement to allow a structure to be 1" from the side property line, and 2) a variance to allow an accessory structure to exceed the 50% lot coverage in the side and rear yard, 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 2 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and no response from North Central Neighborhood Association.

Miguel Gomez, applicant, stated the purpose of this structure is to storage of his wok tools and materials. His work truck was broken into, and work tools were stolen. He stated the structure was already existed, but he covered it in metal siding, and he did extend the size of existing structure.

Vice Chair Ozuna stated he would be in support of a continuance until September 25, 2023, so the applicant can provide more detailed documentation to commissions questions.

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

## MOTION PASSES

**Commission went into recess at 2:58 pm and reconvened at 3:08 pm.**

### Item #5

**BOA-23-10300221:** A request by Garza EMC for a 39'-11" variance from the minimum 40' Throat Length to allow a parking lot with a 1" Throat Length, located at 146 Navarro Street. Staff recommends denial. (Council District 1) (Joseph Leos, Planner (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department)

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

Jessica Milligan, applicant, representative, stated they are proposing to extend the existing parking lot to add 14 more parking spaces, 13 lots with 1 accessible. They would be demolishing of existing plaza including planters, step and the capped fountain and would be replaced with a service parking lot. The proposed parking lot would not negatively impact surrounding neighbors nor their events in fact it would provide additional parking for their events. With this development they would be installing 6-foot sidewalks to increase pedestrian safety along with enhancing the landscaping along the right of way. She stated this is in line with the neighboring parking facilities. She further stated that will be presenting to HDRC (Historic and Design Review Committee) to ensure the design is within keeping of the Historic design guidelines.

## No Public Comment

### Motion

A motion was made by Commissioner Kaplan. Regarding Case No. **BOA-23-10300221**, I move that the Board of Adjustment grant a request for a 39'-11" variance from the minimum 40' Throat Length to allow a parking lot with a 1" Throat Length, situated at 146 Navarro Boulevard, applicant being Garza EMC, 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 driveway throat lengths for vehicle circulation. Staff finds this request which will not infringe on interest of the public.**



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

**The special condition found is the size of the property. Abiding by the driveway throat requirements would result in an unnecessary hardship, as reduction in parking areas 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. In this case, the intention is for minimum driveway throat requirements to ensure safe and efficient traffic flow. The requested variance will observe this requirement.**

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 driveway throat length would be reduced, which will not interfere with the flow of traffic on Navarro Street.**

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

**Staff finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, such as the applicant not having sufficient spacing on the property for the proposed use. The circumstances do not appear to be merely financial.**

The motion was seconded by Commissioner Cruz.

**Favor:** Kaplan, Cruz, Brereton, Picasso, Zuniga, Manna, Benavides, Vasquez, Bonillas, Ozuna

**Opposed:** Dean

## **MOTION PASSES**

### **Item #6**

**BOA-23-10300225:** A request by Alan Capraro for 1) a 1' special exception from the maximum 3' privacy fence, to allow a 4' privacy fence in the front yard, and 2) a 9' variance from the minimum 15' driveway clear vision, to allow a 6' driveway clear vision, located at 1611 South Gevers Street. Staff recommends Approval for Fence Height Special Exception. Staff recommends denial for Clear Vision Variance. (Council District 2) (Joseph Leos, Planner (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department)

Staff stated 26 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and Denver Heights Neighborhood Association is in opposition.

Alan Capraro, applicant, stated the purpose of this exception is to allow a fence along the public right of way. He stated the height is not an issue, he will comply staff's direction.

Vice Chair Ozuna stated this case has been withdrawn as the issue at hand is directed toward Public Works staff therefore this case has been withdrawn.

## NO ACTION TAKEN

### Item #7

**BOA-23-10300234:** A request by Edmundo Gomez for 1) a 9" special exception from the maximum 3' height to allow a 3'-9" privacy fence in the front yard, and 2) a 5' variance from the minimum 15' clear vision to allow a 10' driveway clear vision, located at 1310 Saint Lawrence Street. Staff recommends approval. (Council District 4) (Richard Bautista-Vazquez, Planner (210)-207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 22 notices were mailed to property owners, 0 returned in favor, 1 returned in opposition with 1 notice in opposition outside the 200' radius, and no registered neighborhood association in this area.

Edmundo Gomez, applicant, stated he built the stone fence at 3 feet high to comply with code. However, due to the different elevations along the property, there are some portions that do exceed the 3 feet. He stated he has received several compliments and has also received letters of support.

## No Public Comment

### Motion

A motion was made by Commissioner Benavides. Regarding Case No. **BOA-23-10300234**, I move that the Board of Adjustment grant a request for a 5' variance from the minimum 15' clear vision to allow a 10' driveway clear vision, situated at 1310 Saint Lawrence Street, applicant being Edmundo 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.*

**The requested variance to allow a fence to be 10' within the clear vision, encroaching by 5', and is not contrary to the public interest. Cars will be able to enter and exit the property safely with this distance.**

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*  
**Maintaining a 10' clear vision field is enough to see oncoming traffic from the right of way. The removal of the fence would result in an unnecessary hardship.**
3. *By granting the variance, the spirit of the ordinance will be observed, and substantial justice will be done.*  
**The fence will observe the spirit of the ordinance, as the fence does not obstruct vision significantly.**
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.*  
**There are similar properties located in the area that have similar style fences, therefore the request would not alter the essential character of the neighborhood.**
6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial and are not due to or the result of general conditions in the district in which the property is located.*  
**The variances are sought is due to unique circumstances existing on the property such as the size of the lot. The variance request is not merely financial.**

The motion was seconded by Commissioner Picasso.

**Favor:** Benavides, Picasso, Brereton, Kaplan, Dean, Cruz, Manna, Vasquez, Bonillas, Ozuna  
**Opposed:** Zuniga

## **MOTION PASSES**

### **2<sup>nd</sup> Motion**

A motion was made by Commissioner Benavides. Regarding Case No. **BOA-23-10300234**, I move that the Board of Adjustment grant a request for a 9" special exception from the maximum 3' height to allow a 3'-9" privacy fence in the front yard, situated at 1310 Saint Lawrence Street, applicant being Edmundo 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:

- 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 additional fence height was observed and, 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 residential property owners while still promoting a sense of community. The fence is located along the front property line and is only exceeding the maximum height requirement by 9”.**
- C. *The neighboring property will not be substantially injured by such proposed use.*  
**The fence will create enhanced security and privacy for the subject property and is unlikely to substantially injure any neighboring properties.**
- D. *The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought.*  
**The additional height for the section of front yard fence 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 current zoning permits the current use of a single-family home. The requested special exception will not weaken the general purpose of the district.**

The motion was seconded by Commissioner Picasso.

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

**Opposed:** None

## **MOTION PASSES**

### **Item #8**

**BOA-23-10300237:** A request by Joseph Torres for a variance from the “NCD-7” design guidelines to allow a detached accessory dwelling unit to be 780 square feet, located at 330 Alexander Hamilton. Staff recommends denial. (Council District 7) (Richard Bautista-Vazquez, Planner (210)-207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 27 notices were mailed to property owners, 1 returned in favor, 4 returned in opposition, and no response from Jefferson Heights Neighborhood Association.

Joseph Torres, applicant, stated he is proposing to build a garage apartment behind the exiting garage apartment. He stated the end result would be to have 2 accessory dwellings behind the existing structure.

Vice Chair Ozuna recommend a continuance so the applicant can meet with staff to further discuss his proposal and possibly alternate options.

A verbal voice was taken, and all voted in affirmative.

## MOTION PASSES

### Item #9

**BOA-23-10300238:** A request by Oakley Incorporated 401k Plan for a 4'-11" variance from the minimum 5' side setback to allow an accessory structure with a 1" side setback, located at 235 Valentino Place. Staff recommends denial. (Council District 1) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 34 notices were mailed to property owners, 20 returned in favor, 0 returned in opposition, and Tobin Hill Neighborhood Association is in opposition.

William Oakley, applicant, stated he is proposing to put a small storage shed. He stated because the lots are too small, he is unable to put a storage shed without violating any setback requirement which is the purpose of this variance request. He further stated he visited with the surrounding neighbors within 200' radius and collected a petition expressing support. He stated his amends his request to include gutters.

### Public Comment

#### In Person

Kelly Wofford, spoke in support. 3:17

### Motion

A motion was made by Commissioner Kaplan. Regarding Case No. **BOA-23-10300238**, I move that the Board of Adjustment grant a request for a 4'-11" variance from the minimum 5' side setback to allow an accessory structure with a 9" to include gutters side setback, applicant being Oakley Incorporated 401k Plan, 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 represented by restricted side setback to provide spacing between the property line and the accessory structure. Staff finds the variance is suitable and does not impose on the public interest of the adjacent neighbor by having appropriate distance from the shared property line.**

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

**A literal enforcement of the ordinance would result in unnecessary hardship as the side yard is limited in room without going into the side setback.**

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

**The accessory structure will be 9” from the side property line, which observes the spirit of the ordinance and intent of the code as it will have adequate distance to the shared property line and neighboring structure.**

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

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

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

**If granted, the structure will maintain 9” from the side property line, which is not likely to injure the appropriate use of the adjacent conforming property, as staff observed other similar placement in the area.**

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

**Staff found unique circumstances on the subject property that would warrant the need for a reduced side setback as the side yard does not have adequate space to put an accessory structure without intruding into the side setback.**

The motion was seconded by Commissioner Picasso.

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

**Opposed:** None

## **MOTION PASSES**

### **Item #10**

**BOA-23-10300240:** A request by Parra & Co., LLC for a 5’ variance from the minimum 30’ street frontage to allow a 25’ street frontage, located at 370 Grobe Road. Staff recommends approval. (Council District 2) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 12 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and no response from Wheatley Heights Action Group Neighborhood Association.

Eduardo Di Loreto, representative, stated his client purchased this property with the intent to build a single-family home. His client proceeded with the building process and unfortunately came across some engineering challenges. His client does not have access to the property which is the purpose of this variance request.

### No Public Comment

### Motion

A motion was made by Commissioner Manna. Regarding Case No. **BOA-23-10300240**, I move that the Board of Adjustment grant a request for a 5' variance from the minimum 30' street frontage, to allow a 25' street frontage, situated at 370 Grobe Road, applicant being Michael Jaime, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

1. *The variance is not contrary to the public interest.*  
**In this case, the public interest is represented by restricted street frontage requirement. Without the variance the applicant would not be able to develop a single-family residence on the property.**
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*  
**A literal enforcement of the ordinance would result in the applicant not being able to develop a single-family residence.**
3. *By granting the variance, the spirit of the ordinance will be observed, and substantial justice will be done.*  
**The granting of this variance will observe the spirit of the ordinance, as the single-family residence will be abiding by all other setback 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 street frontage will be 25' for the lot. This will not injure the appropriate use of adjacent conforming properties, as the orientation of the lot is unique.**

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 orientation of the lot. This circumstance does not appear to be merely financial.**

The motion was seconded by Commissioner Cruz.

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

**Opposed:** None

### **MOTION PASSES**

#### **Item #11**

**BOA-23-10300241:** 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)

Kristie Flores, Planning Manager, stated the applicant is seeking a continuance until September 25, 2023.

A motion was made for a continuance until September 25, 2023.

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

### **MOTION PASSES**



**Adjournment**

There being no further business, the meeting was adjourned at 4:55 PM.

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

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

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