

## City of San Antonio



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

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**Monday, October 9, 2023**

**1:00 PM**

**1901 S. Alamo**

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**1:00 PM – Call to Order**

**Spanish Interpreter presented.**

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

**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.*

**Withdrawn**

Item #3 BOA-23-10300237 – located at 330 Alexander Hamilton.

**Commissioner Cruz arrived at 1:06 pm**

**Commissioner Riahi left Webex at 1:06 pm**

**Item #4**

**BOA-23-10300253:** A request by Carlos Bernal for a 15 square feet variance from the minimum 4,000 square feet requirement to allow development on a 3,985 square feet lot, located at 1012 Dreiss Street. Staff recommends approval. (Council District 2) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

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

Carlos Bernal, applicant, stated he is proposing to build a single-family home on the subject property. He does not feel this would have a negative impact in the neighborhood.

### No Public Comment

### Motion

A motion was made by Commissioner Bragman. Regarding Case No. **BOA-23-10300253**, I move that the Board of Adjustment grant a request for a 15 square foot variance from the minimum 4,000 square feet requirement to allow development on a 3,985 square feet lot., situated at 1012 Dreiss Street, applicant being Carlos Bernal, 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 variance request does not appear to be contrary to the public interest as granting the variance would be in line with other lot sizes in the area.**
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 rezone which would result in an unnecessary hardship.**
3. *By granting the variance, the spirit of the ordinance will be observed, and substantial justice will be done.*  
**The request appears to be in the spirit of the ordinance as the requirement is there to protect the neighborhood, and there are other single-family homes on similar lot sizes in the area.**
4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the zoning district in which the variance is located.*  
**No uses other than those allowed within the district will be allowed with this variance.**
5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*  
**Staff finds that the variance would not substantially injure the appropriate use of adjacent properties as many other lots do not meet the minimum lot size requirements.**

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 Kaplan.

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

**Opposed:** None

### **MOTION PASSES**

#### **Item #5**

**BOA-23-10300254:** A request by Sign Remedy for 1) a 24' variance from the maximum 16' sign height to allow a 40' sign along a local road, and 2) a 102 square feet variance from them maximum 75 square feet to allow a 177 square feet sign along a local road, located at 5552 NW Loop 410. Staff recommends denial. (Council District 7) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@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 withing 200' radius of subject property.

Arturo Elizondo, Chief Sign Inspector, stated the applicant is currently allowed incidental/way finding signs however the alternate would be no illuminate signs no taller than 12 feet, not exceed thirty-two (32) square feet.

Stephanie Steward, applicant, stated they currently have two signs one of which is on the 410 corridors, A1, which is the variance request of 70-foot being that it abuts the 65-foot overpass. The second sign, A2, was reduced in square footage and height to meet current code.

Mirko Maravi, Principal Planner, stated the proposed sign does meet code therefore this case does not need to be considered.

### **NO ACTION TAKEN**

#### **Item #6**

**BOA-23-10300255:** A request by Habitat for Humanity of San Antonio for a 9' variance from the minimum 20' rear setback to allow an 11' rear setback on two (2) lots, located at 1602 and 1604 Santiago Street. Staff recommends approval. (Council District 5) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 41 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and Historic Westside Residents Neighborhood Association is in support.

Michael Taylor, Habitat for Humanity, stated the purpose of this request is to allow for a single-family home. He stated they submitted a Certificate of Determination application so they may build over the lot lines.

### Public Comment

#### Voicemail

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

### Motion

A motion was made by Commissioner Cruz. Regarding Case No. **BOA-23-10300255**, I move that the Board of Adjustment grant a request for a 9' variance from the minimum 20' rear setback to allow an 11' rear setback on two (2) lots, situated at 1602 and 1604 Santiago Street, applicant being Habitat for Humanity of San Antonio, 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 request does not appear to be contrary to the public interest. The surrounding area would have similar rear setbacks and are appropriate for the area.**
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*  
**Staff finds an unnecessary hardship for the rear setback variance due the depth of the lot. The proposed structure does not have ample space to extend to the rear therefore requires a rear setback variance to be built on the site.**
3. *By granting the variance, the spirit of the ordinance will be observed, and substantial justice will be done.*  
**The requested rear setback variance is to allow a structure to be closer to the rear property line. The request will observe the spirit of the ordinance because the proposed structure will still maintain a reasonable distance between the structure and the surrounding properties.**
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.*  
**Additional properties located along Santiago Street were observed to have similar structures with similar rear setbacks, 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 rear setback variance is sought is due to unique circumstances existing on the property such proposed structure 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:** Cruz, Kaplan, Brereton, Picasso, Dean, Zuniga, Manna, Vasquez, Bragman, Benavides, Ozuna

**Opposed:** None

## **MOTION PASSES**

### **Item #7**

**BOA-23-10300256:** A request by Rose and Glenn Knapp for a 9'-11" variance from the minimum 10' front setback requirement to allow a carport to be 1" from the front property line, located at 4105 Sunrise Cove Drive. Staff recommends denial. (Council District 2) (Joseph Leos, Planner (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department)

Staff stated 41 notices were mailed to property owners, 4 returned in favor, 0 returned in opposition, and no response from Sunrise Neighborhood Association.

Glenn Knapp, applicant, stated he is requesting to extend his carport 1" more to protect his vehicles. He stated he agrees with installing gutters alongside the carport.

### **No Public Comment**

### **Motion**

A motion was made by Commissioner Kaplan. Regarding Case No. **BOA-23-10300256**, I move that the Board of Adjustment grant a request for a 8' variance from the minimum 10' front setback requirement to allow a carport to be 2' from the front property line, situated at 4105 Sunrise Cove, applicant being Glenn Knapp, 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 interested is represented by setback requirements to prevent storm water runoff and routine maintenance without trespass. The requested distance provides adequate spacing, and water runoff will not impose on the ROW.**

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

**A literal enforcement of the ordinance would result in an unnecessary hardship, as the granting of this variance will not allow for the applicant to construct sizeable carport.**

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 this variance will observe the spirit of the ordinance, as the carport is an allowable distance from 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.*

**This request will not injure the appropriate use of adjacent conforming properties, as other carports imposing into the setback were found in the immediate vicinity. The request does not seem to be out of character with the district and is harmonious with the neighborhood.**

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

**Staff finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, such as limited spacing in the front yard to abide by the front setback requirement. The circumstances do not appear to be merely financial.**

The motion was seconded by Commissioner Picasso.

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

**Opposed:** None

## **MOTION PASSES**

**Vice Chair Ozuna stated Chair Oroian joined the meeting at 1:52 pm with Mr. Vasquez serving as an alternate.**

**Commission went into recess at 1:52 pm and reconvened at 2:00 pm.**

**Item #8**

**BOA-23-10300257:** A request by Juana Solis for a 3'-3" special exception from the maximum 3' fence height to allow a 6'-3" privacy fence in the front yard, located at 627 Viendo Street. Staff recommends denial. (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 Los Angeles Heights Neighborhood Association is in opposition.

Juana Solis, applicant, stated for protections purposes from her neighbor, she installed a fence for higher than what is allowed by code. Her neighbor has assaulted her with a machete, stones, and other harmful items. She has made police reports from these assaults and her neighbor was taken away.

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

A motion was made by Commissioner Picasso. Regarding Case No. **BOA-23-10300257**, I move that the Board of Adjustment grant a request for a 3'-3" special exception from the maximum 3' fence height to allow an 6'-3" privacy fence in the front yard, situated at 627 Viendo Street, applicant being Juana Solis, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

- A. *The special exception will be in harmony with the spirit and purpose of the chapter.*  
**The fence height being requested is a 6'-3" privacy fence in the front 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 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 front yard of the subject property does not appear to alter the location for which the special exception is sought.**

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 Kaplan.

Commissioner Manna offered a friendly amendment that the west fence only and not the whole yard. Commissioner Picasso accepted the friendly amendment.

**Favor:** Picasso, Cruz, Zuniga, Manna, Bragman, Ozuna, Benavides, Oroian

**Opposed:** Kaplan, Brereton, Dean

### **MOTION FAILS**

Commissioner Kaplan made a motion to reconsider and was seconded by Commissioner Zuniga.

A verbal vote was taken, and all voted in affirmative with Commissioner Dean opposing.

Chair Oroian stated motion passes for reconsideration.

### **CASE FAILS DUE TO LACK OF MOTION**

#### **Item #9**

**BOA-23-10300258**: A request by Nathan Manfred for a 3' variance from the minimum 5' side setback to allow a 2' side setback, located at 124 Adams Street. Staff recommends approval. (Council District 1) (Joseph Leos, Planner (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department)

Staff stated 32 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and King William Neighborhood Association is in support.

Nathan Manfred, applicant, the wall of the exterior of the addition would be 3' from the property line with a proposed of 1' foot overhang. He stated they have presented their proposal to HDRC (Historic Design Review Commission) who have approved their development. He further stated he has collected letters from adjacent neighbors expressing support.

### **No Public Comment**

#### **Motion**

A motion was made by Commissioner Ozuna. Regarding Case No. **BOA-23-10300258**, I move that the Board of Adjustment grant a request for a 3' variance to allow for a 2' setback of the structure 3' from the property line which includes a 12" gutter overhang from the minimum 5' side setback requirement, situated at 124 Adams Street, applicant being Nathan Manfred, 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 interested is represented by setback requirements to prevent storm water runoff and routine maintenance without trespass. The requested distance provides adequate spacing, and water runoff will not impose on the adjacent neighbor, which 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 building the structure 5' from the side property line. An unnecessary hardship will be presented by having the applicant alter construction plans, which could drastically reduce square footage of the structure.**

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

**In this case, the intent of the code is to 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.*

**This 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 and two-story single-family dwellings, all constructed on similar lot sizes and setbacks.**

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 Bragman.

Chair Oroian offered a friendly clarification to 3' variance from the minimum 5' setback requirement to allow for a 2' setback that would consist of the structure 3' from the property line which includes a 12" gutter overhang.

Vice Chair Ozuna and Commissioner Bragman accepted friendly clarification.

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

## **MOTION PASSES**

### **Item #10**

**BOA-23-10300259:** A request by Pape-Dawson Engineers, Inc. for a 17'-6" variance from the minimum 20' front parking area to allow parking past 2'-6" from the front property line, located at 6464 Babcock Road. Staff recommends denial. (Council District 8) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 30 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and no response from Tanglewood Residents Neighborhood Association.

Adam Rademacher, applicant, stated the purpose of this variance request is to allow for front parking within the 20' from the front property line. The variance will allow for parking within the first 20 feet which is restricted to ingress/egress only.

### **No Public Comment**

### **Motion**

A motion was made by Commissioner Ozuna. Regarding Case No. **BOA-23-10300259**, I move that the Board of Adjustment grant a request for a 17'-6" variance from the minimum 20' front parking area to allow parking past 2'-6" from the front property line, situated at 6464 Babcock Road, applicant being Pape-Dawson Engineers, 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.*  
**Due to the design and configuration of the proposed buildings the parking within the 20' of an extended maximum front setback requirement 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.*  
**Staff finds hardship on the property as there is not adequate space to meet the 20' front parking area 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 will be observed as the parking cannot be outside the 20' front setback 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.*

**Staff finds evidence that the requested variance for placing parking within the 20' front setback 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.*

**Because of the configuration of the proposed buildings, proposal of parking within the 20' front setback is appropriate for the area. The request is not merely financial.**

The motion was seconded by Commissioner Picasso.

**Favor:** Ozuna, Picasso, Brereton, Kaplan, Cruz, Zuniga, Bragman, Benavides, Oroian

**Opposed:** Dean, Manna

## **MOTION PASSES**

### **Item #11**

**BOA-23-10300261:** A request by Killen, Griffin & Farrimond, PLLC for a 2'-6" variance from the minimum 20' rear setback to allow a 17'-6" rear setback, located at 2522 Tampico Street. Staff recommends approval. (Council District 5) (Vincent Trevino, Senior Planner (210) 207- 5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 44 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and El Charro Neighborhood Association did not oppose this request.

Rob Killen, representative, stated his client is proposing the build a single-family home on the subject property. Due to the small lot size, the requested 2.5' variance is to allow for a 19' long driveway for parking.

### **No Public Comment**

### **Motion**

A motion was made by Commissioner Kaplan. Regarding Case No. **BOA-23-10300261**, I move that the Board of Adjustment grant request for a 2'-6" variance from the minimum 20' rear setback to allow a 17'-6" rear setback, situated at 2522 Tampico Street, applicant being Killen, Griffith & Farrimond, PLLC, 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.*  
**There will be adequate space between the structure and neighboring houses and so it is not contrary to the public interest.**
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*  
**A literal enforcement of the ordinance would result in unnecessary hardship as there would not be enough space to construct the dwelling.**
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 reduced rear setback requirement is in the spirit of the ordinance as there will be adequate space between the dwelling and adjacent properties.**
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 reduced rear setback requirement will not substantially injure the appropriate use of adjacent properties.**
6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial and are not due to or the result of general conditions in the district in which the property is located.*  
**Staff finds the plight of the owner of the property for which the variances are sought is due to unique circumstances existing on the property, such as the location of the property.**

The motion was seconded by Commissioner Picasso.

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

**Opposed:** None

**MOTION PASSES**

**Item #12**

**BOA-23-10300262:** A request by 1718 Partners for a 15' variance from the required 15' buffer to allow the elimination of a buffer on the front property line, located at 3939 Thousand Oaks Drive. Staff recommends approval. (Council District 10) (Joseph Leos, Planner (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department)

Staff stated 8 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.

Steven Martin, representative, stated the property is currently vacant. Due to a fire in 2017, the daycare structure was destroyed. Unfortunately, there was a 3-year delay for reconstructing as the property owner purchased a portion of the adjacent property to relocate parking to a more elevated area. They are proposing to develop on the existing footprint. Construction commenced under a partial conditional approval permit pending the approval of this variance request.

**No Public Comment**

Commissioner Zuniga left the meeting at 3:38 pm and Commissioner Vasquez sat in as a voting member.

**Motion**

A motion was made by Commissioner Bragman. Regarding Case No. **BOA-23-10300262**, I move that the Board of Adjustment grant a request for a 15' variance from the required 15' buffer to allow the elimination of a buffer on the front property line, situated at 3939 Thousand Oaks Drive, applicant being 1718 Partners, 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 buffer yard requirements to provide landscaped separation between uses. The elimination of the buffer yard is not contrary to public interest as it does not negatively impact any surrounding properties or the public.**

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 utilization of the existing concrete slab for parking. A literal enforcement of the ordinance would result in the applicant incorporating the minimum 15' buffer yard, which would result in an unnecessary hardship, as the applicant would need to reconfigure the parking plan.**

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 elimination of the buffer yard will adhere to the spirit of the ordinance, as the owner will not be demolishing or reconstructing the existing parking 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 or alter the essential character of the district. The appearance of the streetscape will not be altered, if approved.**

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 utilizing the existing parking in place of the buffer yard. The circumstances do not appear to be merely financial.**

The motion was seconded by Commissioner Manna.

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

**Opposed:** None

## **MOTION PASSES**

### **Item #13**

Approval of the minutes from the Board of Adjustment meetings on September 18, 2023, and September 25, 2023.

Chair Oroian stated each set of minutes would be considered separately.

### **September 18, 2023, BOA Minutes**

Commissioner Brereton made a motion to approve as amended to delete error on page 13 and was seconded by Chair Oroian.

A verbal was vote was taken and all voted in affirmative with Commissioner Bragman abstaining.

**MOTION PASSES**

**September 25, 2023, Minutes**

A motion was made by Commissioner Ozuna and seconded Commissioner Picasso for approval of the September 25, 2023, minutes as presented.

A verbal was vote was taken and all voted in affirmative with Commissioner Kaplan abstaining.

**MOTION PASSES**

**Director's Report** – nothing to report.

**Adjournment**

There being no further business, the meeting was adjourned at 3:46 PM.

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

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

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