

City of San Antonio



Draft

Board of Adjustment Minutes

Development and Business Services

Center

1901 South Alamo

September 20, 2021

1:00PM

1901 S. Alamo

Board of Adjustment Members

A majority of appointive Members shall constitute a quorum.

Donald Oroian, District 8, Chair

Andrew Ozuna, Mayor, Vice Chair

Seth Teel, District 6, Pro-Tem

Vacant, District 1 | Scott Albert, District 2

Abel Menchaca, District 3 | George Britton, District 4 |

Maria Cruz, District 5 | Phillip Manna, District 7

Kimberly Bragman, District 9 | Jonathan Delmer, District 10

Alternate Members

Patrick Conroy | Elizabeth Ingalls | Jo-Anne Kaplan | Lisa Lynde

Lillian Miess | Jesse Vasquez | Jesse Zuniga

1:00 P.M. - Call to Order

- Roll Call

- Present: Albert, Menchaca, Cruz, Manna, Bragman, Delmer, Miess, Vasquez, Teel, Ozuna, Oroian

- Absent: Britton

2 Translators from SeproTec were present to assist with translating.

**THE FOLLOWING ITEMS MAY BE CONSIDERED AT ANY TIME DURING THE
REGULAR BOARD OF ADJUSTMENT MEETING:**

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

Item #1 (POSTPONED) BOA-21-10300085

Item #2 (Continued from 08/02/2021) BOA-21-10300075: A request by Francisco Leija for 1) a 2' 6" variance from the minimum 5' side setback to allow a carport to be 2' 6" away from the side property line, 2) a 9' 9" variance from the 10' front setback to allow a carport to be 3" away from the front property line, 3) a 4' 11" variance from the minimum 5' side setback to allow a 1" side setback, and 3) a 40% variance from the 50% front yard impervious cover limitation to allow front yard impervious cover of 90%, and 4) a 11' 5" variance from the minimum 15' Clear vision area to allow a driveway with a 3' 7" clear vision area, located at 2414 Suzette Avenue. Staff recommends Denial with an Alternate Recommendation. (Council District 6) (Kayla Leal, Senior Planner (210) 207-0197, kayla.leal@sanantonio.gov, Development Services Department)

Staff stated 17 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and no response from the Highland Park Neighborhood Association.

Francisco Leija, 2414 Suzette Ave – stated the variance requests are to allow the carport and impervious cover to stay as is for weather protection for all his vehicles.

No Public Comment

The Board asked the applicant questions concerning the request. The Applicant responses were heard by the board as well as other testimonies offered, followed by a discussion among board members before the vote.

Chair Oroian asked for a motion for item BOA-20-10300075, as presented.

Ms. Bragman made a **motion** for BOA-20-10300075 for approval

“Regarding Case No. BOA-21-10300075, I move that the Board of Adjustment grant 1) a 2' 6" variance from the minimum 5' side setback to allow a carport to be 2' 6" away from the side property line, 2) a 9' 9" variance from the minimum 10' front setback to allow a carport to be 3" away from the front property line, 3) a 4' 11" variance from the minimum 5' side setback to allow a 1" side setback, and 3) a 40% variance from the 50% limit front yard impervious cover to allow a front yard impervious cover of 90%, and 4) a 11' 5" variance from the minimum 15' Clear Vision area to allow a driveway with a 3' 7" clear vision area, situated at 2414 Suzette Avenue, applicant being Francisco Leija, 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 request to allow a carport encroachment into the side setback is not contrary to the public interest as the applicant has adequate space from the adjacent structure.*

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
The Board finds that any special conditions that, if enforced, would result in an unnecessary hardship. By imposing a literal enforcement, the carport width would need to be adjusted to 16' 9" which would reduce the amount of space for two vehicles.
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 intent of the setbacks is to provide spacing between neighboring structures which is observed.
4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*
The variance will not authorize the operation of a use other than those uses specifically authorized by the district.
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 request to reduce a portion of the side setback does not pose a risk of substantially injuring the use of adjacent properties and does not seem likely to alter the essential character of the district. This property is located within an older neighborhood, and there are other nonconforming carports built encroaching into the side 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.*
The Board finds that the plight of the property owner is sought due to the unique circumstances existing on the property due to the short width of available space for a two-vehicle carport."

Second: Ozuna

Friendly Amendment by Chair Oroian for the following:

1. Remove the request for a 2' 6" variance from the minimum 5' side setback to allow a carport to be 2' 6" away from the side property line
2. 5' variance from the minimum 10' front setback to allow a carport to be 3" away from the front property line,
3. 2' variance to allow a 3' side setback
4. 20% variance from the 50% limit front yard impervious cover to allow a front yard impervious cover of 70%
5. 11' 5" variance from the minimum 15' Clear Vision area to allow a driveway with a 3' 7" clear vision area

Ms. Bragman and Mr. Ozuna accepted the amendments.

Mr. Manna requested an amendment of 70% impervious coverage.

Ms. Bragman and Mr. Ozuna accepted the amendments.

In Favor: Albert, Menchaca, Cruz, Manna, Bragman, Delmer, Miess, Vasquez, Teel, Ozuna, Oroian

Opposed: None

Motion Granted and Amended

Item #3 (Continued from 08/02/2021) **BOA-21-10300090:** A request by Tarun Gajera for a 4' 8" variance from the minimum 5' side setback requirement to allow an addition with 2" gutters to be 4" from side property line, located at 343 Bank Street. Staff recommends Denial with an Alternate Recommendation. (Council District 5) (Kayla Leal, Senior Planner (210) 207-0197, kayla.leal@sanantonio.gov, Development Services Department)

Staff stated 35 notices were mailed to property owners within 200 feet, 0 returned in favor, and 1 returned in opposition, and no response from the Lone Star Neighborhood Association.

Tarun Gajera, 343 Bank St – stated he is trying to have the property in compliance with the City of San Antonio.

Public Comment

Raul Cantu, 339 Bank – In opposition

Richard Cantu, 339 Bank - yielded minutes to Raul Cantu

Mike McFall, 339 Bank - yielded minutes to Raul Cantu

Chair Oroian asked for a motion for item BOA-21-10300090, as presented

Mr. Ozuna made a **motion** for BOA-21-10300090, for approval

“Regarding Case No. BOA-21-10300090, I move that the Board of Adjustment grant a request for a 2' variance from the minimum 5' side setback requirement to allow an addition with 2" gutters to be 3" from side property line, situated at 343 Bank Street, applicant being Tarun Gajera, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

- The variance is not contrary to the public interest. The public interest is defined as the general health, safety, and welfare of the public.*
The request to allow the encroachment into the side setback is not contrary to the public interest as the applicant has adequate space from the adjacent structure.
- Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
The Board finds that any special conditions that, if enforced, would result in an unnecessary hardship. By imposing a literal enforcement, the structure would need to be moved back five feet.

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 intent of the setbacks is to provide spacing between neighboring structures which is observed in this case.*
4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located. The variance will not authorize the operation of a use other than those uses specifically authorized by the district.*
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 request to reduce a portion of the side setback does not pose a risk of substantially injuring the use of adjacent properties and does not seem likely to alter the essential character of the district. The adjacent structure is set back on their property more than five feet, so the variance 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. The Board finds that the plight of the property owner is sought due to the unique circumstances existing on the property and is not merely financial in nature.”*

Second: Manna

In Favor: Menchaca, Cruz, Manna, Bragman, Delmer, Miess, Vasquez, Teel, Ozuna, Oroian

Opposed: Albert

Motion Granted

Item #4 **BOA-21-10300106:** A request by SDI Wender Plaza, LLC for variances from the Highway 151 Gateway Corridor design standards including: 1) a 264 square foot sign variance from the 300 square foot maximum to allow a multi-tenant sign facing State Highway 151 to be 564 square feet and 2) a 174 square foot sign variance from the 200 square foot maximum to allow a multi-tenant sign facing North Hunt Lane to be 374 square feet, generally located in the 9800 Block of TX Hwy 151. Staff recommends Approval. (Council District 4) (Kayla Leal, Senior Planner (210) 207-0197, Kayla.Leal@sanantonio.gov, Development Services Department)

Staff stated 69 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, no registered neighborhood association.

Brian Wexler, 16605 Anis Trail, Austin, TX – stated the request is for a Sprouts store and explained the need for a larger sign for highway viewing.

Public Comment

Charles Wender, is in agreement for the larger sign.

The Board asked the applicant questions concerning the request. The Applicant responses were heard by the board as well as other testimonies offered, followed by a discussion among board members before the vote.

Chair Oroian asked for a motion for item BOA-20-103000106, as presented

Mr. Teel made a **motion** for BOA-20-103000106 for approval

“Regarding Case No. BOA-21-10300106, I move that the Board of Adjustment grant a request from the Highway 151 Gateway Corridor design standards including: 1) a 264 square foot sign variance from the 300 square foot maximum to allow a multitenant sign facing State Highway 151 to be 564 square feet and 2) a 174 square foot sign variance from the 200 square foot maximum to allow a multi-tenant sign facing North Hunt Lane to be 374 square feet, applicant being SDI Wender Plaza, LLC, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

1. *The variance is not contrary to the public interest. The public interest is defined as the general health, safety, and welfare of the public.*
The applicant is requesting the variance in order exceed the square footage for signage which is limited by the Texas 151 Gateway Corridor. The height limit is still being met, so the excess in square footage does not appear to be contrary to the public interest.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship. A literal enforcement of the ordinance would result in the applicant reducing the signage for a large commercial development. The visual impact of the proposed signage does not appear to conflict with the surrounding area.*
3. *By granting the variance, the spirit of the ordinance will be observed, and substantial justice will be done. The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law.*
The proposed signage does not conflict with Chapter 28 Sign Code, but rather is required due to the Gateway Corridor. DSD Site Plan Review Staff has reviewed the request and does not have objections due to the compliance with the height restrictions.
4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*
The variance will not authorize the operation of a use other than those uses specifically authorized by the district.
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 request for the variances will not substantially injure adjacent properties or alter the essential character of the district. All other sign standards are being met on the property.

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

The Board finds that the plight of the property owner is sought due to the unique circumstances existing on the property and is not merely financial.”

Second: Ozuna

In Favor: Albert, Menchaca, Cruz, Manna, Bragman, Delmer, Miess, Vasquez, Teel, Ozuna, Oroian

Opposed: None

Motion Granted

Item #5 **BOA-21-10300126:** A request by Mary Ann MacCartney for a Special Exception from the density limitation to allow a Type 2 Short Term Rental, located at 230 Lucas Street. Staff recommends Denial. (Council District 2) (Kayla Leal, Senior Planner (210) 207-0197, Kayla.Leal@sanantonio.gov, Development Services Department)

Staff stated 26 notices were mailed to property owners within 200 feet, 1 returned in favor, 4 returned in opposition. No response from the Mahncke Park Neighborhood Association.

Mary Ann MacCartney, 230 Lucas Street – Requesting a special exception to have a Type 2 Short Term rental. The home will be rented out when they are not in the United States and will live in the home when they are.

Public Comment

Veronica Rosales, 311 Lucas Street – In opposition (voice mail)

The Board asked the applicant questions concerning the request. The Applicant responses were heard by the board as well as other testimonies offered, followed by a discussion among board members before the vote.

Chair Oroian asked for a motion for item BOA-20-10300126, as presented

Mr. Ozuna made a **motion** for BOA-20-10300126 for approval

“Regarding Case No. BOA-21-10300126, I move that the Board of Adjustment grant a special exception to allow for (1) Type 2 short term rental unit, situated at 230 Lucas Street, applicant being Mary Ann MacCartney, 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 special exception will not materially endanger the public health or safety.*
The Board finds that the request to operate a short term rental is unlikely to materially endanger the public health, safety, or welfare. There is nothing obvious that would distinguish a short term rental versus a long term rental at this facility.
2. *The special exception does not create a public nuisance.*
The Board finds that there are a total of forty (11) residential units on this blockface and the special exception would permit a total of two (2) Type 2 short term rentals, resulting in 18.2% of the blockface.
3. *The neighboring property will not be substantially injured by such proposed use.*
The neighboring properties consist of single-family residences and multi-family, and the subject property is located in close proximity to the commercial corridor of North New Braunfels Avenue and Broadway Street. The applicant will also reside on the property for limited amount of times. This unique scenario does not cause reason to believe it will substantially injure neighboring property as a Type 2 Short Term Rental.
4. *Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary faculties have been or are being provided.*
The subject property provide off-street parking and appears to have adequate utilities, access, and open space.
5. *The applicant or owner for the special exception does not have any previously revoked short term rental licenses, confirmed citations, or adjudicated offenses convictions for violations of Chapter 16, Article XXII of the City Code within one year prior to the date of the application.*
The applicant currently does not currently hold a Short Term Rental Permit and does not have any history of revocation, citations, or convictions for violations of Chapter 16.
6. *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 subject property is located in close proximity to commercial, recreational, and other residential uses. With the property owner providing off-street parking and maintaining it from the neighboring property, the special exception does not appear to alter the essential character of the district and location in which the property is seeking the special exception.

Second: Bragman

In Favor: Miess, Albert, Menchaca, Vasquez, Cruz, Manna, Bragman, Delmer, Teel, Ozuna, Oroian

Opposed: None

Motion Granted

Chair Oroian called for the Board of Adjustment to take a recess at 3:08 pm. The Board of Adjustment reconvened at 3:18 pm.

Item #6 BOA-21-10300102: A request by Paula and Daniel Minesinger for a 4' 11" variance from the minimum 5' side setback requirement to allow an addition to be 1" from the side property line, located at 235 Yellowstone. Staff recommends Denial with an Alternate Recommendation. (Council District 5) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Staff stated 34 notices were mailed to property owners within 200 feet, 5 returned in favor, 0 returned in opposition. The Roosevelt Park Neighborhood Association is in favor. The Conservation Society of San Antonio is in objection.

Daniel Minesinger, 235 Yellowstone – Asking for fence variance. Requesting the City to allow the addition without fire rated.

Public Comment:

Juan Gonzalez, 241 Yellowstone – In opposition

Mr. Ozuna left the Board of Adjustment meeting at 3:39 p.m., **Ms. Lynde** joined the Board of Adjustment meeting at 3:39 p.m.

The Board asked the applicant questions concerning the request. The Applicant responses were heard by the board as well as other testimonies offered, followed by a discussion among board members before the vote.

Chair Oroian asked for a motion for item BOA-20-10300102 as presented.

Mr. Teel made a **motion** for BOA-20-10300102 for Approval.

“Regarding Case No. BOA-21-10300102, I move that the Board of Adjustment grant a request for a 4' 6" variance to the minimum 5' side setback requirement to allow an addition to be 6" from the side property line, situated at 235 Yellowstone Street, applicant being Daniel and Paula Minesinger, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

- The variance is not contrary to the public interest.*
The public interest is defined as the general health, safety, and welfare of the public. The request to allow a room addition encroachment into the side setback is not contrary to the public interest as the applicant has adequate space from the adjacent structure.
- Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
The Board finds that any special conditions that, if enforced, would result in an unnecessary hardship. By imposing a literal enforcement, the room addition would need to be adjusted to 5' which would require a partial demolition of the room addition which would reduce the amount of space for the room addition.
- 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 intent of the setbacks is to provide spacing between neighboring structures which is observed.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*
The variance will not authorize the operation of a use other than those uses specifically authorized by the district.
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 request to reduce a portion of the side setback does not pose a risk of substantially injuring the use of adjacent properties and does not seem likely to alter the essential character of the district. This property is located within an historic neighborhood, and there are other non-conforming lots where residential homes are encroaching into the side 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.*
The Board finds that the plight of the property owner is sought due to the unique circumstances existing on the property due to the irregular lot sizes which is common in this area of town."

Second: Manna

Chair Oroian made a amendment to include "addition to not exceed 35' off the rear of the building." Amendment was accepted by both Mr. Teel and Mr. Manna. Applicant accepted as well.

In Favor: Miess, Albert, Menchaca, Vasquez, Cruz, Manna, Bragman, Delmer, Teel, Lynde, Oroian

Opposed: None

Motion Granted

Item #7

BOA-21-10300103: A request by Clara R Sanchez for 1) a 10' 4" variance from the minimum 20' rear setback to allow a structure to be 9' 8" away from the rear property line and 2) a 204 square foot variance from the minimum lot size requirement of 4,000 square feet to allow a lot to be 3,796 square feet, located at 2615 West Poplar Street. Staff recommends Approval. (Council District 1) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Staff stated 42 notices were mailed to property owners within 200 feet, 0 returned in favor, 1 returned in opposition. No response from the Prospect Hill Neighborhood Association.

Gilbert Orosorio, 2615 West Poplar Street – Speaking on behalf on his mother. Requesting variance to build home for kids to be closer to mother.

Public Comment:

Carmen Kelty, 2617 W Popular – In opposition

The Board asked the applicant questions concerning the request. The Applicant responses were heard by the board as well as other testimonies offered, followed by a discussion among board members before the vote.

Chair Oroian asked for a motion for item BOA-20-10300103, as presented.

Ms. Bragman made a **motion** for BOA-20-10300103 for approval.

“Regarding Case No. BOA-21-10300103, I move that the Board of Adjustment grant a request for 1) a 10’ 4” variance from the minimum 20’ rear setback to allow a structure to be 9’ 8” away from the rear property line and 2) a 204 square foot variance from the minimum lot size requirement of 4,000 square feet to allow a lot to be 3,796 square feet, applicant being Clara Sanchez, 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 request to allow a residential structure encroachment into the rear setback and minimum lot size variance is not contrary to the public interest as the applicant has adequate space from the adjacent structure.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
The Board finds that any special conditions that, if enforced, would result in an unnecessary hardship. By imposing a literal enforcement, the residential structure would not be able to be constructed due to minimum lot size variance needed and the residential structure would need to be adjusted to 20’ which would reduce the amount of space for vehicles in the front of the proposed structure.
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 intent of the setbacks is to provide spacing between neighboring structures which is observed.
4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*
The variance will not authorize the operation of a use other than those uses specifically authorized by the district.
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 request to reduce a portion of the rear setback and build on a lot smaller than 4,000 sq. ft. does not pose a risk of substantially injuring the use of adjacent properties and does not seem likely to alter the essential character of the district. This property is located within an older neighborhood, and there are other similar non-conforming lots with residential structures built encroaching into the rear 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.*
The Board finds that the plight of the property owner is sought due to the unique circumstances existing on the property due to the shorten depth and lot size available to construct a residential structure.”

Second: Cruz

In Favor: Miess, Albert, Menchaca, Vasquez, Cruz, Manna, Bragman, Delmer, Lynde, Teel, Oroian

Opposed: None

Motion Granted

Item #8

BOA-21-10300105: A request by Bexar Engineers & Associates for 1) a variance from the fencing material to allow a corrugated metal fence and 2) a special exception to allow a fence in the front yard to be 6' 7" tall, located at 255 South WW White Road. Staff recommends Approval. (Council District 2) (Kayla Leal, Senior Planner (210) 207-0197, Kayla.Leal@sanantonio.gov, Development Services Department)

Staff stated 24 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition. No registered Neighborhood Association.

Daniel Aguilar, 7042 Alamo Downs Parkway – Fence has been in place for ten years. Fence is needed for safety from vandalism.

No Public Comment

The Board asked the applicant questions concerning the request. The Applicant responses were heard by the board as well as other testimonies offered, followed by a discussion among board members before the vote.

Chair Oroian asked for a motion for item BOA-20-10300105, as presented

Mr. Manna made a **motion** for BOA-20-10300105 for approval

“Regarding Case No. BOA-21-10300105, I move that the Board of Adjustment grant a request for 1) a variance from the fencing material to allow a corrugated metal fence, situated at 255 South WW White Road, applicant being Bexar Engineers & Associates, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

The public interest is defined as the general health, safety, and welfare of the public. The applicant has installed a corrugated metal fence, which requires a variance from the fencing materials. With the commercial use of the property and the heavy amount of commercial uses in the area, the use of corrugated metal distinguishes the commercial from other residential properties. As long as the edges of the corrugated metal are to be protected, the variance 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.*
The Board finds that any special conditions that, if enforced, would result in an unnecessary hardship. By imposing a literal enforcement, the corrugated metal would need to be replaced with a permitted fencing material.
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. There are no violations with the fence height along the side property line, and the corrugated metal along the side property line has protected edges. The spirit of the ordinance appears to be observed.
4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*
The variance will not authorize the operation of a use other than those uses specifically authorized by the district.
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 essential character of the district will be maintained as there are many commercial properties in the immediate area, and the corrugated metal fencing in this case allows the public to distinguish the commercial lot from the neighboring residential.
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 Board finds that the plight of the property owner is sought due to the unique circumstances existing on the property and is not merely financial.

Second: Cruz

In Favor: Miess, Albert, Menchaca, Vasquez, Cruz, Manna, Bragman, Delmer, Lynde, Teel, Oroian

Opposed: None

Motion Granted

Special Exception

Mr. Teel made a motion for BOA-20-10300105 for approval special exception

“Regarding Case No. BOA-21-10300105, I move that the Board of Adjustment grant a special exception to allow a special exception from the maximum fence height to allow a fence in the front yard to be 6’ 7” tall., situated at 255 South WW White Road, applicant being Bexar Engineers & Associates, 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 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 upon the site visit in a portion of the front yard and, if granted, staff finds the request would be in harmony with the spirit and purpose of the ordinance.
2. *The public welfare and convenience will be substantially served.*
The fence does not run along the front property line but is installed past the front façade of an existing warehouse. This portion of fencing does not cause any clear vision issues but is just encasing commercial operation on the property. The request appears to substantially serve the public welfare and convenience.
3. *The neighboring property will not be substantially injured by such proposed use.*
The Board finds that the fence will create enhanced security for the subject property and is unlikely to injure adjacent properties.
4. *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 front yard fence will not alter the essential character of the district and will provide security of the district. The fence is setback from the front property line, which does not appear as altering to the district.
5. *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 an auto and light truck repair shop. The requested special exception will not weaken the general purpose of the district.

Second: Manna

In Favor: Miess, Albert, Menchaca, Vasquez, Cruz, Manna, Bragman, Delmer, Lynde, Teel, Oroian

Item #9 BOA-21-10300107: A request by Christopher Morton for a 4' 11" variance from the 5' minimum rear setback to allow a detached accessory structure to be 1" from the rear property line, located at 206 East Lullwood Avenue. Staff recommends Approval. (Council District 1) (Kayla Leal, Senior Planner (210) 207-0197, Kayla.Leal@sanantonio.gov, Development Services Department)

Staff stated 21 notices were mailed to property owners within 200 feet, 3 returned in favor, 0 returned in opposition. No response from the Monte Vista Neighborhood Association. Monte Vista Historical Association Architectural Review Committee is in support.

Christopher Morton, 206 East Lullwood Avenue – Requesting variance to convert garage to living space.

No Public Comment

The Board asked the applicant questions concerning the request. The Applicant responses were heard by the board as well as other testimonies offered, followed by a discussion among board members before the vote.

Chair Oroian asked for a motion for item BOA-20-10300107, as presented

Mr. Manna made a **motion** for BOA-20-10300107 for approval

“Regarding Case No. BOA-21-10300107, I move that the Board of Adjustment grant a request for 4’ 11” variance from the 5’ minimum rear setback to allow a detached accessory structure to be 1” from the rear property line, situated at 206 East Lullwood Avenue, applicant being Christopher Morton, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

1. *The variance is not contrary to the public interest.*
The public interest is defined as the general health, safety, and welfare of the public. The applicant is requesting the variance in order to pull building permits for an existing structure. The footprint of the structure will not be altered and the variance does not appear contrary to the public interest.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
The Board finds that any special conditions that, if enforced, would result in an unnecessary hardship. By imposing a literal enforcement, the structure would need to be moved 5’ from the rear property line, which would result in unnecessary hardship as there is limited space in the rear yard. There was previously an alleyway which contributed to the rear setback when the structure was originally built.
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 intent of the setbacks is to provide spacing between neighboring structures which is observed.
4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*
The variance will not authorize the operation of a use other than those uses specifically authorized by the district.
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 request to reduce the rear setback for the accessory dwelling does not pose a risk of substantially injuring the use of adjacent properties and does not seem likely to 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.*
The Board finds that the plight of the property owner is sought due to the unique circumstances existing on the property and is not merely financial.

Second: Teel

In Favor: Miess, Albert, Menchaca, Vasquez, Cruz, Manna, Bragman, Delmer, Lynde, Teel, Oroian

Opposed: None

Motion Granted

Item #10 **BOA-21-10300108:** A request by Thomas Carrasco for a 1,843 square foot variance from the minimum lot size requirement of 4,000 square feet to allow a lot size of 2,157 square feet, located at 447 Vine Street. Staff recommends Approval. (Council District 2) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Staff stated 30 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition. No response from Denver Heights Neighborhood Association.

Thomas Carrasco, 447 Vine Street – Requesting variance to build a home on the lot.

No Public Comment

The Board asked the applicant questions concerning the request. The Applicant responses were heard by the board as well as other testimonies offered, followed by a discussion among board members before the vote.

Chair Oroian asked for a motion for item BOA-20-10300108, as presented

Mr. Teel made a **motion** for BOA-20-10300108 for approval

“Regarding Case No. BOA-21-10300108, I move that the Board of Adjustment grant a request for a 1,843 sq. ft. variance from the minimum required 4,000 sq. ft. to allow a lot size of 2,157 square feet, situated at 447 Vine Street, applicant being Thomas Carrasco, 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 request to allow a residential structure to be constructed on a 2,157 sq. ft lot is not contrary to the public interest.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
The Board finds that any special conditions that, if enforced, would result in an unnecessary hardship. By imposing a literal enforcement, the structure would not be able to be constructed as more property is required to meet the 4,000 sq. ft. requirement.
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*
The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. The intent of the minimum lot size is to provide uniformity amongst lots, but the odd shape to this lot observes the spirit of the ordinance.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*
The variance will not authorize the operation of a use other than those uses specifically authorized by the district.
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 request to reduce a portion of the minimum lot size does not pose a risk of substantially injuring the use of adjacent properties and does not seem likely to alter the essential character of the district. This property is located within an older neighborhood, and there are other non-irregular lots 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.*
The Board finds that the plight of the property owner is not merely financial and is sought due to the unique circumstances existing on the property due to the smaller and irregular lot size is common in this area.”

Second: Bragman

In Favor: Miess, Albert, Menchaca, Vasquez, Cruz, Manna, Bragman, Delmer, Lynde, Teel, Oroian

Opposed: None

Motion Granted

Item #11

BOA-21-10300109: A request by Elvira Bustos for 1) a 2' 2" variance from the 10' minimum front setback to allow a carport to be 7' 10" from the front property line and 2) a 4' 1" variance from 5' minimum side setback to allow a carport to be 11" from the side property line, located at 11301 El Sendero Street. Staff recommends Denial with an Alternate Recommendation. (Council District 10) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Staff stated 27 notices were mailed to property owners within 200 feet, 2 returned in favor, 0 returned in opposition. No response from Hills of Park North Neighborhood Association.

Gracie Garza, 11301 El Sendero Street – Stated they did not know they needed a permit for the construction of the carport. The carport is needed for the RV and the other vehicles. They cannot park their RV in the street.

No Public Comment

The Board asked the applicant questions concerning the request. The Applicant responses were heard by the board as well as other testimonies offered, followed by a discussion among board members before the vote.

Chair Oroian asked for a motion for item BOA-20-10300109, as presented

Mr. Manna made a **motion** for BOA-20-10300109 for approval

“Regarding Case No. BOA-21-10300109, I move that the Board of Adjustment grant a request for 1) a 2' 2" variance from the 10' minimum front setback to allow a carport to be 7' 10" from the front property line and 2) a 4' 1" variance from 5' minimum side setback to allow a carport to be 11" from the side property line, situated at 11301 El Sendero, applicant being Elvira Bustos, 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 request to allow a carport encroachment into the front and side setback is not contrary to the public interest as the applicant has adequate space from the adjacent structure.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
The Board finds that any special conditions that, if enforced, would result in an unnecessary hardship. By imposing a literal enforcement, the carport would need to be moved back to 10' in the front and 5' on the side which would reduce the amount of space.
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 intent of the setbacks is to provide spacing between neighboring structures which is observed.
4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*
The variance will not authorize the operation of a use other than those uses specifically authorized by the district.
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 request to reduce a portion of the front and side setback does not pose a risk of substantially injuring the use of adjacent properties and does not seem likely to alter the essential character of the district. There appear to be other carports built encroaching into the front and side 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.*
The Board finds that the plight of the property owner is sought due to the unique circumstances and are not merely financial.

Second: Cruz

In Favor: Miess, Albert, Menchaca, Vasquez, Cruz, Manna, Bragman, Delmer, Lynde, Teel, Oroian

Opposed: None

Motion Granted

Item #12 **BOA-21-10300112:** A request by Eric Duxstad for a 2' variance from the 5' minimum side setback to allow a residential structure to be 3' from the side property lines, located at 123 and 131 Boudet Place. Staff recommends Approval. (Council District 2) (Kayla Leal, Senior Planner (210) 207-0197, Kayla.Leal@sanantonio.gov, Development Services Department)

Staff stated 26 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition. No response from the Denver Heights Neighborhood Association.

Eric Duxstad, 102 Oak Park Drive – Bought the two properties and have reached out to the neighbors in the Denver Heights Neighborhood.

No Public Comment

The Board asked the applicant questions concerning the request. The Applicant responses were heard by the board as well as other testimonies offered, followed by a discussion among board members before the vote.

Chair Oroian asked for a motion for item BOA-20-10300105, as presented

Ms. Cruz made a **motion** for BOA-20-10300105 for approval

“Regarding Case No. BOA-21-10300112, I move that the Board of Adjustment grant a request for 1) a 2' variance from the 5' minimum side setback to allow a residential structure to be 3' from the side property lines, situated at 123 and 131 Boudet Place, applicant being Eric Duxstad, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

The public interest is defined as the general health, safety, and welfare of the public. The applicant is requesting a variance from the side setback for a new development of single-family dwellings. The request would reduce the setback for two side property lines by 2' and all other setbacks will be met for the proposed development.

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

The Board finds that any special conditions that, if enforced, would result in an unnecessary hardship. By imposing a literal enforcement, it would result in the applicant in adjusting the design layout of the development, which would reduce the amount of space between other structures or the amount of livable space.

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 intent of the setbacks is to provide spacing between neighboring structures which is observed.*
4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located. The variance will not authorize the operation of a use other than those uses specifically authorized by the district.*
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 request for the reduction in the side setback for only the northernmost and southernmost property lines is not likely to alter the essential character of the district nor will 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. The Board finds that the plight of the property owner is sought due to the unique circumstances existing on the property such as the limited amount of available space to provide quality housing, and is not merely financial.*

Second: Manna

In Favor: Miess, Albert, Menchaca, Vasquez, Cruz, Manna, Bragman, Delmer, Lynde, Teel, Oroian

Opposed: None

Motion Granted

Item #13 Consideration and approval of September 13, 2021 Board of Adjustment meeting minutes.

Motion: Chair Oroian asked for a motion for approval of September 13, 2021 minutes.

Chair Oroian made a **motion** for approval of the September 13, 2021 minutes.

Second: Manna

In Favor: Miess, Menchaca, Vasquez, Cruz, Manna, Bragman, Delmer, Lynde, Teel, Oroian

Opposed: None

Abstained: Albert

Minutes approved with corrections

Adjournment

There being no further business, the meeting was adjourned at 5:17 p.m.

DRAFT

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary

DRAFT