

City of San Antonio



DRAFT

Board of Adjustment Minutes

Development and Business Services

Center

1901 South Alamo

December 06, 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

1:03 P.M. - Call to Order

- Roll Call

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

- Absent: Britton, Lynde

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 #13 Discussion and possible action on proposed 2021 UDC Amendments from the Board of Adjustment. Monique Mercado, Principal Planner, (210) 207-5016, monique.mercado@sanantonio.gov, Development Services Department.)

Motion: Chair Oroian asked for a motion for approval of the 2021 UDC Amendments from the Board of Adjustment.

Mr. Teel made a **motion** for approval of the 2021 UDC Amendments from the Board of Adjustment

Second: Cruz

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

Opposed: None

Motion Granted

Items #1 and #2 were withdrawn from the Board of Adjustment Meeting.

Item #1 (WITHDRAWN) BOA-21-10300144: A request by Adrian Buck for a variance from the NCD-7 Jefferson Neighborhood Conservation District design standards to allow non-discreet solar panels on the front facing roof of a primary structure, located at 103 Cromwell. Staff recommends Denial. (Council District 7) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Item #2 (WITHDRAWN) (FROM 11/15/2021) BOA-21-10300148: A request by Monica Naves Ayluardo for 1) a 2' variance from the 5' minimum side setback to allow a structure to be 3' from the side property line, 2) a 875 sq. ft. lot size variance from the minimum 4,000 sq. ft requirement to allow a lot size of 3,125 sq. ft. and 3) a 10' variance from the minimum lot width requirement of 35' to allow a lot width of 25', located at 1723 and 1727 East Crockett Street. Staff recommends Approval. (Council District 2) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Item #3 BOA-21-10300161: A request by Roi Biton for a 14' 11" variance from the landscape buffer requirement to allow 1" landscape buffer along the northern side and rear property lines, located at 1407 North Pine Street. Staff recommends Approval. (Council District 2) (Kayla Leal, Principal 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, and the Government Hill Alliance Neighborhood Association is in favor.

Roi Biton, applicant, requested a variance for a 15' buffering zone for parking and space between his business and residential homes.

Public Comment:

Rose Hill, 2107 N Interstate 35, in favor.

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-21-10300161, as presented.

Mr. Ozuna made a **motion** for BOA-21-10300161 for approval.

Regarding Case No. BOA-21-10300161, I move that the Board of Adjustment grant a request for a 14' 11" variance to allow 1" landscape buffer along the northern side and rear property lines, situated at 1407 North Pine Street, applicant being Roi Biton, 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 variance to the landscape buffer in order to allow for parking and better accommodate the development. The property went through a rezoning process with the proposed site plan. 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, would result in the applicant having to provide a 15' landscape buffer, which would reduce the amount of space on the property for off-street parking.

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 placement of parking along the property lines abutting the residential properties will provide an adequate buffer between the residences and the commercial buildings and will provide space between structures.

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 requested variance is to reduce the landscape buffer on a small lot which would provide off-street parking for customers, which is not likely to injure adjacent properties or alter the essential character of the district.

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

The Board finds that the plight of the property owner is sought due to the unique circumstances existing on the property due to the small size of the commercial lot.

Second: Manna

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

Opposed: None

Motion Granted

Item #4

BOA-21-10300157: A request by Felise De Novo for a 2' special exception to allow an 8ft solid screened privacy fence along the side and rear property lines, located at 519 West King's Highway. Staff recommends Denial. (Council District 7) (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, 4 returned in opposition and the Alta Vista Neighborhood Association is in opposition.

Applicant unable to attend Board of Adjustment Meeting and requested a continuance to the January 10, 2022 meeting.

No Public Comment:

Chair Oroian asked for a motion for item BOA-21-10300157, to be continued to the January 10, 2022 Board of Adjustment Meeting.

Mr. Teel made a **motion** for BOA-21-10300157 for a continuance.

Second: Bragman

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

Opposed: None

BOA-21-10300157 continued to the January 10, 2022 Board of Adjustment Meeting.

**Chair Oroian called for the Board of Adjustment to take a recess at 1:37 P.M.
The Board of Adjustment reconvened at 1:41 P.M.**

Item #5

BOA-21-10300165: A request by John Higginbotham for a 2' special exception to allow an 8ft solid screened privacy fence along the left side property line, located at 17014 Summer Creek Drive. Staff recommends Approval. (Council District 9) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Staff stated 14 notices were mailed to property owners within 200 feet, 2 returned in favor, 0 returned in opposition, and the Blanco Woods Neighborhood Association is in opposition.

John Higginbotham, applicant, requested a 2' special exception to allow an 8' solid fence for privacy and security.

Public Comment:

Voicemails:

Janice Lawlor, 17002 Summer Creek Dr, in favor.

Emily Clark, 17010 Wood Canyon St, in favor.

17011 Summer Creek Dr, in favor.

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-21-10300165 as presented.

Mrs. Bragman made a **motion** for BOA-21-10300165 for approval.

Regarding Case No. BOA-21-10300165, I move that the Board of Adjustment grant a 2' special exception to allow an 8 ft solid screened privacy fence along the left side property line, situated at 17014 Summer Creek Drive, applicant being John Higginbotham, 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 2' of height is intended to provide additional privacy for the property.

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. An 8' solid screen privacy fence along the left rear yard does not pose any adverse effects to the public welfare.

C. 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.

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 the rear yard fence will not alter the essential character of the district and will provide security 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.

Second: Cruz

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

Opposed: None

Motion Granted

Item #6

BOA-21-10300160: A request by Joe Terrazas for a variance of 1,500 sq. ft. to required minimum 6,000 sq. ft. to allow a residential structure to be built on a 4,500 sq. ft. lot, and a variance of 4' to the required minimum 5' side setback to allow a residential structure to be 1' from side property line, located at 1414 Estancia Street. Staff recommends Denial with an Alternate Recommendation. (Council District 3) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Staff stated 25 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and the Villa Coronado Neighborhood Association was neither in favor nor in opposition.

Joe Terrazas, applicant, requested a variance to build a single-family home without meeting the minimum lot sq. ft. requirement due to the lot being irregular in shape.

Public Comment:

Voicemail:

Crystal De La Santos, 1415 Estancia St, in favor.

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-21-10300160, as presented.

Mr. Manna made a **motion** for BOA-21-10300160 for approval.

Regarding Case No. BOA-21-10300160, I move that the Board of Adjustment grant a request for 1) a 1,500 sq. ft. variance from the minimum 6,000 sq. ft. requirement to allow a 4,500 sq. ft. lot and 2) a 2' variance from the minimum 5' side setback requirement to allow a structure to be 3' from the side property line, situated at 1414 Estancia Street, applicant being Joe Terrazas, 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 built on a lot size of 4,500 sq. ft. and to allow a variance of 2' to allow a structure to be 3' from the side property line is not contrary to the public interest as the applicant has adequate space from the adjacent property.

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 allowed to be built as it lacks in lot size and side setbacks which would reduce the amount of livable space for a residential home.

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 non-conforming houses built encroaching into the side setbacks with similar lot sizes.

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 in dealing with the unique shape and size of the lot size for a residential structure.

Second: Bragman

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

Opposed: None

Motion Granted

Item #7 BOA-21-10300162: A request by John Cortez for 1,700 sq. ft. variance from the minimum lot size requirement of 6,000 sq. ft. to allow a lot size of 4,300 sq. ft., located at 705 West Craig Place. Staff recommends Approval. (Council District 1) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Staff stated 19 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition, and the Alta Vista Neighborhood Association was in favor.

John Cortez, applicant, requested a variance to allow a lot size of 4,300 sq. ft. in order to build a new property.

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-21-10300162 as presented.

Mr. Teel made a **motion** for BOA-21-10300162 for approval.

Regarding Case No. BOA-21-10300162, I move that the Board of Adjustment grant a request for 1,700 sq. ft. variance to allow a lot size of 4,300 sq. ft., situated at 705 West Craig Place, applicant being John Cortez, 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 lot size of 4,300 sq. ft. 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 residential structure would not be able to be constructed.

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.

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 lot being previously divided into smaller lots.

Second: Bragman

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

Opposed: None

Motion Granted

Item #8

BOA-21-10300163: A request by Clifford Soto for 1) a 908 sq. ft. variance from the minimum 6,000 square foot lot size requirement to allow a 5,092 sq. ft. lot size located at 3127 Winsome Lane and 2) a 904 sq. ft. variance from the minimum 6,000 square foot lot size requirement to allow a 5,096 sq. ft. lot size located at 3123 Winsome Lane. Staff recommends Approval. (Council District 4) (Kayla Leal, Principal Planner (210) 207-0197, Kayla.Leal@sanantonio.gov, Development Services Department)

Staff stated 23 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and no registered neighborhood association.

Clifford Soto, applicant, requested a variance from the minimum lot size requirement to build two single-family homes.

Christina Chavez, contractor, answered board members questions.

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-21-10300163, as presented.

Mrs. Bragman made a **motion** for BOA-21-10300163 for approval.

Regarding Case No. BOA-21-10300163, I move that the Board of Adjustment grant a request for 1) a 904 sq. ft. variance from the minimum 6,000 square foot lot size requirement to allow a 5,096 sq. ft. lot size located at 3123 Winsome Lane and 2) a 908 sq. ft. variance from the minimum 6,000 square foot lot size requirement to allow a 5,092 sq. ft. lot size located at 3127 Winsome Lane, situated at 3123 and 3127 Winsome Lane, applicant being Clifford Soto, 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 for the lot size variance is not found 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 not being able to build or being required to change the zoning of the property. This does pose an unnecessary hardship for the applicant and the property.

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 to provide uniformity amongst lots, and the request for a lot size variance does appear to observe the spirit of the ordinance and provide substantial justice.

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 variance will not substantially injure 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.*

The Board finds that the plight of the property owner is sought due to the unique circumstances that were not created by the owner of the property and are not merely financial.

Second: Manna

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

Opposed: None

Motion Granted

Item #9

BOA-21-10300151: A request by Irma Ibanez for a 4' 11" variance from the minimum 5' side setback requirement to allow a carport to be 1" from the side property line, located at 207 Havana Drive. Staff recommends Denial. (Council District 7) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department) Staff stated 169 notices were mailed to property owners within 200 feet, 4 returned in favor, 0 returned in opposition, and no response from the Canyon Creek Estates Neighborhood Association.

Irma Ibanez, applicant, requested a variance to keep her carport as security for her classic vehicles. Applicant formally amended her request to include gutters within 1" of the property line.

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-21-10300151 as presented.

Mr. Manna made a **motion** for BOA-21-10300151 for approval.

Regarding Case No. BOA-21-10300151, I move that the Board of Adjustment grant a request for a 4' 11" variance from the minimum 5' side setback requirement to allow a carport to be 1" from the side property line, situated at 207 Havana Drive, applicant being Irma Ybanez, 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. Manna amended that the carport be no more than 38' in length.

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 5' from the side property line which would reduce the amount of space for homeowner to park his 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 specifically applies as the applicant has amended their request to include gutters that will maintain the 1" variance.

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 unique circumstances are not merely financial and are not due to the result of general conditions in the district.

Second: Teel

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

Opposed: Menchaca

Motion Granted

Item #10

BOA-21-10300156: A request by Patrick Williams Christensen for a 10' variance from the 20' minimum front setback required by the Beacon Hill Neighborhood Conservation District standards to allow a duplex to be 10' from the front property line, located at 1102 West Ashby Place. Staff recommends Approval. (Council District 1) (Forrest Wilson, Senior Planner (210) 207-0157, Forrest.Wilson@sanantonio.gov, Development Services Department)

Staff stated 19 notices were mailed to property owners within 200 feet, 1 returned in favor, 0 returned in opposition, and the Beacon Hill Neighborhood Association is in favor.

Patrick W Christensen, applicant, requested a variance to move the duplex forward 10' for resident and visitor parking.

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-21-10300156, as presented.

Mr. Ozuna made a **motion** for BOA-21-10300156 for approval.

Regarding Case No. BOA-21-10300156, I move that the Board of Adjustment grant a request for a 10' variance from the 20' minimum front setback required by the Beacon Hill Neighborhood Conservation District standards to allow a duplex to be 10' from the front property line, situated at 1102 West Ashby Avenue, applicant being Patrick W Christensen, 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 to the front setback to allow for a 10' front setback from the property line which 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 the applicant building the duplex 20 feet from the front property line. The lot size would not accommodate the proposed structure based on the current site plan, which presents an unnecessary hardship.

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 10' front setback still provides a significant buffer from the property line. The request appears to observe the spirit of the ordinance.

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

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

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

If granted, the structure will have a 10' setback from the front property line, which is not 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 the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property. The circumstances do not appear to be merely financial.

Second: Manna

In Favor: Kaplan, 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 3:00 P.M.
The Board of Adjustment reconvened at 3:10 P.M.**

Item #11 BOA-21-10300164: A request by Ilija Huljev for a 11' variance from the minimum 20' rear setback requirement to allow a structure to be 9' from the rear property line, located at 1843 Dawson Street. Staff recommends Approval. (Council District 2) (Rebecca Rodriguez, Planner (210) 207-0120, Rebecca.Rodriguez@sanantonio.gov, Development Services Department)

Staff stated 46 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and no response from the Harvard Place Eastlawn Neighborhood Association.

Vincent Whitten, 17239 Shavano Rd, requested a variance to allow a structure to be 9' from the rear property line.

No Public Comment

Chair Oroian asked for a motion for item BOA-21-10300164, as presented.

Mrs. Cruz made a **motion** for BOA-21-10300164, for approval.

Regarding Case No. BOA-21-10300164, I move that the Board of Adjustment grant a request for a 11' variance from the minimum 20' rear setback requirement to allow a structure to be 9' from the rear property line, situated at 1843 Dawson, applicant being Ilija Huljev, 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 an attached rear structure to be built 9' from the rear property line 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 new attached structure could not be built on this lot.

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

The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. Substantial justice will be done by allowing a structure to be constructed to the rear that will provide adequate spacing to surrounding lots.

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 proposed structure does not cause any concern and does not appear to substantially injure uses of adjacent conforming properties or the character of the neighborhood. The property is located in an area where small lots are commonly found.

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

The Board finds the plight of the owner of the property for which the variance is not sought is due to unique circumstances existing on the property and are not merely financial.

Second: Oroian

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

Opposed: None

Motion Granted

Item #12 BOA-21-10300168: A request by Brett Henneke for a 6” variance from the minimum 5’ side setback requirement to allow a structure to be 4’ 6” from the side property lines, located at 1651, 1655, and 1659 North Center Street. Staff recommends Approval. (Council District 2) (Kayla Leal, Principal Planner (210) 207-0197, Kayla.Leal@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, and no response from the Jefferson Heights Neighborhood Association.

Brett Henneke, applicant, requested a 6” side setback variance for each lot to build a 16’ wide house.

No Public Comment

Chair Oroian asked for a motion for item BOA-21-10300168, as presented.

Mr. Teel made a **motion** for BOA-21-10300168, for approval.

Regarding Case No. BOA-21-10300168, I move that the Board of Adjustment grant a request for a 6” variance from the minimum 5’ side setback requirement to allow a structure to be 4’ 6” from the side property lines, situated at 1651, 1655, and 1659 North Center Street, applicant being Brett Henneke, 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 for a 6” variance along the side property lines are 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 construction would need to meet the 5’ side setback, which would alter the design of the residence.

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 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.

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 small size of each lot.

Second: Bragman

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

Opposed: None

Motion Granted

Item #14

Consideration and approval of November 15, 2021 Board of Adjustment meeting minutes.

Motion: Chair Oroian asked for a motion for approval of November 15, 2021 minutes as amended.

Mr. Manna made a **motion** for approval of the November 15, 2021 minutes as amended.

Second: Kaplan

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

Opposed: None

Minutes approved with corrections

Adjournment

There being no further business, the meeting was adjourned at 3:29 P.M.

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary