



Board of Adjustment Minutes

Development and Business Services

Center

1901 South Alamo

February 21, 2022

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

Vacant | 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, Ingalls, Cruz, Manna, Bragman, Vasquez, Kaplan, Teel, Ozuna, Oroian
- **Absent:** Britton, Delmer

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 **(Continued from 01/10/2022) BOA-21-10300180:** A request by Daniel Kang for a special exception from the Short-Term Rental density limitation to allow one (1) additional Type 2 Short Term Rental Permit on the blockface, located at 511 Furr Drive. Staff recommends Denial. (Council District 7) (Kayla Leal, Principal Planner (210) 207-0197, Kayla.Leal@sanantonio.gov, Development Services Department)

Public Comment:

Larissa O’Connors, 210 North Dr., spoke in opposition.
Bianca Maldonado, 457 Club Dr., spoke in opposition.

Applicant requested a continuance until the April 4, 2022, Board of Adjustment meeting.

Chair Oroian asked for a motion for item BOA-21-10300180 as presented.

Teel made a **motion** for item BOA-21-10300180 to be continued to April 4, 2022.

Second: Manna

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

Opposed: Vasquez

Motion Granted for a continuance for BOA-21-10300180 to April 4, 2022.

Item #2 **(Continued from 01/24/2022) BOA-21-10300170:** A request by Patrick Williams Christensen for a half-story variance from the two and a half-story maximum to allow a multi-family structure to be three stories tall, located in the 1400 Block of West Villaret Boulevard. Staff recommends Denial. (Council District 4) (Kayla Leal, Principal Planner (210) 207-0197, Kayla.Leal@sanantonio.gov, Development Services Department)

Staff stated 7 notices were mailed to property owners within 200 feet, 0 returned in favor, 1 returned in opposition, and there is no registered neighborhood association. A petition was received with 32 signatures in opposition.

Patrick Christensen, Gilbert Vegara, Efren Vegara, applicants, presented a request for a half-story variance maximum to allow a multi-family structure to be three stories tall within the 50’ residential setback.

Public Comment:

Voicemail:

Michael Gonzales, spoke in favor.
Elizabeth Gonzalez, 8930 Lytle Ave., spoke in opposition.

Luis Martinez, 1927 W. Mally, spoke in opposition.
Yvette Dela Cruz, 1922 W. Mally, spoke in opposition.

Virginia Ortiz, 1930 W. Mally, spoke in opposition.

Jesse Ortiz, 1930 W. Mally, spoke in opposition.

Isaiah Banta had comments stating he was a liaison offering assistance to the community in submitting the petition.

The Board asked the applicant and staff questions concerning the request. The applicant and staff 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-21-10300170 as presented.

Ozuna made a **motion** for item BOA-21-10300170 to be Approved.

Regarding Case No. BOA-21-10300170, I move that the Board of Adjustment grant a request for a half-story variance from the two and a half-story maximum to allow a multi-family structure to be three stories tall within the 50' residential setback, situated at 1455 West Villaret Boulevard, applicant being Patrick 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. It is found that the property is over 200 feet in width, allowing for enough distance from the adjacent residential uses. Additionally, the maximum height of 35 feet is the same height allowed for the adjacent residential uses so 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 development would be limited to 2 ½ stories tall for the 50' linear area from the residentially-used property, and the request is for a half-story more which is only measured inside the structure and the maximum height will still be met.

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 maximum height of the structure will still be met by not exceeding 35 feet.

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 allow 2 ½ stories does not appear to injure adjacent properties or change the essential character of the district since the maximum height allowed on the property will not be increased.

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: Bragman

In Favor: Ingalls, Bragman, Teel, Ozuna, Oroian

Opposed: Kaplan, Albert, Menchaca, Cruz, Manna, Vasquez

Motion failed with a vote of 5-6.

Item #3

(Continued from 01/24/2022) BOA-21-10300175: A request by Shaun Cane for a special exception from the Short-Term Rental density limitation to allow one (1) additional Type 2 Short Term Rental Permit on the blockface, located at 700 Dawson Street. Staff recommends Denial. (Council District 2) (Kayla Leal, Principal Planner (210) 207-0197, Kayla.Leal@sanantonio.gov, Development Services Department)

Applicant requested a continuance until the April 4, 2022, Board of Adjustment meeting.

Public Comment:

Voicemail:

Valerie Cortez, 508 Lamar, spoke in opposition.

Chair Oroian asked for a motion for item BOA-21-10300175.

Teel made a **motion** for BOA-21-10300175 to be continued to March 21, 2022.

Second: Kaplan

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

Opposed: Albert

Motion Granted for a continuance for BOA-21-10300175 to be continued to March 21, 2022.

Item #4

BOA-21-10300077: A request by Paula Griffith for a 2' special exception from the maximum 6' fence height requirement to allow an 8' solid screened fence along the southern side property line, located at 8607 Norwich Road. Staff recommends Approval. (Council District 10) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Staff stated 15 notices were mailed to property owners within 200 feet, 1 returned in favor, 2 returned in opposition, and no registered neighborhood association.

Paula Griffith, applicant, requested an 8-foot fence for the left side of her property.

Public Comment:

John Lowrance, 8611 Norwich Dr., spoke in opposition.

The Board asked the applicant and staff questions concerning the request. The applicant and staff responses were heard by the board, followed by a discussion among board members before the vote.

Chair Oroian asked for a motion for item BOA-21-10300077 as presented.

Teel made a **motion** for BOA-21-10300077 for Approval.

Regarding Case No. BOA-21-10300077, I move that the Board of Adjustment grant a 2' special exception from the 6' maximum fence height to allow an 8' solid screen fence in the side yard, situated at 8607 Norwich Street, applicant being Paula Griffith, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

A. The special exception will be in harmony with the spirit and purpose of the chapter.

The UDC states the Board of Adjustment can grant a special exception for a fence height modification. The additional fence height is intended to provide additional safety and privacy for the property as they are abutting a commercially-zoned property and their lot contains unique elevation changes.

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 screened fence along the side yard on the properties for Norwich 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 and privacy 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 side yard fence will not alter the essential character of the district and will provide security and privacy 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: Manna

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

Opposed: None

Motion Granted

The Board of Adjustment meeting went into recess at 3:02 pm and reconvened at 3:10 pm.

Chair Oroian requested to hear item #9 next.

Item #9

BOA-22-10300007: A request by Jelynn L. Burley (Jamison) for a 4'6" variance from the minimum 5' side setback to allow a carport with a 2" overhang and gutters to be 6" from the front property line, located at 426 West Mariposa. Staff recommends Denial with Alternate Recommendation. (Council District 1) (Rebecca Rodriguez, Planner, (210) 207-0120, Rebecca.Rodriguez@sanantonio.gov, Development Services Department)

Staff stated 36 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and no response from both the Edison or Northmoor neighborhood associations.

Jelynn Burley, applicant, requested to keep her carport as is.

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-22-10300007 as presented.

Bragman made a **motion** for BOA-22-10300007 for approval.

Regarding Case No. BOA-22-10300007, I move that the Board of Adjustment grant a request for a 4'6" variance from the minimum 5' side setback to allow a carport with a 2" overhang and gutters to be 6" from the front property situated at 426 West Mariposa, applicant being Jelynn L. Burley (Jamison), 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 carport to be 6" from the side 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 of a five-foot side setback, a carport could not be built on this 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 defined as the intent of the code, rather than the exact letter of the law. Substantial justice will be done by allowing the carport to be built 6" from the side property line.

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 within a neighborhood where carports are commonly found in the side yard.

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 configuration of the residence on the lot and lot size prevents the development of a carport with a five-foot side setback therefore circumstances are not merely financial.

Second: Teel

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

Opposed: None

Motion Granted

Item #5

BOA-22-10300004: A request by Ricardo Arrellano for a variance from the frontage requirement to allow for a single-family residential lot to front on a collector street, located at 1611 South Gevers Street. Staff recommends Denial. (Council District 2) (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, 1 returned in favor, 0 returned in opposition, and Denver Heights Neighborhood Association is in favor.

Oscar Rodriguez, applicant, requested to make an entrance through Gevers for a residential lot.

Public Comment:

Voicemail:

Santa Hernandez, 1102 Essex, spoke in favor.

The Board asked the applicant and staff questions concerning the request. The applicant and staff 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-22-10300004, as presented.

Teel made a **motion** for BOA-22-10300004 for approval.

Regarding Case No. BOA-22-10300004, I move that the Board of Adjustment grant a request for a variance from the frontage requirement to allow frontage for a residential lot to front on a collector street, situated at 1611 South Gevers Street, applicant being ISRO Engineering Services, PLLC, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

The public interest is defined as the general health, safety, and welfare of the public. The request is to allow residential structures to have a frontage located on a collector street does not appear to be contrary to the public interest as the applicant has adequate space for a driveway approach.

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 owner would have to redesign the plans with a common entryway for all four dwelling units which may not serve as the best access.

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 frontage requirement is to allow access from a local street. The access off of South Gevers Street 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.*

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 a frontage requirement on a collector street for the proposed development 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 such as its corner location and individual access to each dwelling unit would be more suitable than having a shared driveway for four units.

Second: Manna

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

Opposed: None

Motion Granted

Item #6

BOA-22-10300002: A request by Brett Henneke for a 2' 6" variance from the minimum 5' side setback requirement to allow a structure to be 2' 6" from the eastern side property line, located at 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 Jefferson Heights Neighborhood Association.

Brett Henneke, applicant, requested a 2' 6" variance for his right setback.

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-22-10300002 as presented.

Teel made a **motion** for BOA-22-10300002 for approval.

Regarding Case No. BOA-22-10300002, I move that the Board of Adjustment grant a request for a 2' 6" variance from the minimum 5' side setback requirement to allow a structure to be 2' 6" from the eastern side property line, situated at 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 2' 6" variance along the eastern side 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.*

There appear to be special conditions that 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 as the variance is along a side property line that is abutting North Walters Street.

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 the lot.

Second: Bragman

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

Opposed: None

Motion Granted

Item #7

BOA-22-10300005: A request by Daryl W Appling, for a 1' 9" variance from the minimum 5' side setback requirement to allow a detached structure with 7" overhang to be 3' 3" away from side property line, located at 234 Irvington. Staff recommends Approval. (Council District 10) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautistavazquez@sanantonio.gov, Development Services Department)

Staff stated 29 notices were mailed to property owners within 200 feet, 2 returned in favor, 1 returned in opposition, 5 returned in opposition outside the 200 feet, and no response from the Terrill Heights Association.

Daryl Appling, applicant, requested to use the garage as living quarters for his children.

Public Comment:

Voicemail:

James Spencer, 235 Irvington Dr., spoke in opposition.

Amy Sharp, 239 Devonshire Dr., spoke in opposition.

Dave Willhoite, CMR 4T5 BOX 4094, spoke 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-22-10300005 as presented.

Ozuna made a **motion** for BOA-22-10300005 for approval.

Regarding Case No. BOA-22-10300005, I move that the Board of Adjustment grant a request for 1' 9" side setback variance from the minimum 5' side setback requirement to allow a detached structure with 7" overhang to be 3' 3" away from side property line, situated at 234 Irvington Drive, applicant being Daryl W. Appling, 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 for a side setback variance in order to utilize an existing structure in the conversion to an Accessory Detached Dwelling Unit. Maintaining the existing setback of 3' 3" 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 having to relocate the structure 5' from the side property line, which would possibly require a demolition of the existing 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. A 3' 3" setback from side property line appears to observe the spirit of the ordinance.

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

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

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

The request to allow the existing structure to maintain a 3' 3" side setback appears to provide enough space away from the property line and is not likely to negatively affect the adjacent neighboring 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.*

Staff finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property such as the existing structure and limited amount of available space.

Second: Bragman

A friendly amendment was added to the motion that the structure side setback cannot exceed 10 feet from the rear property line. Bragman accepted the friendly amendment.

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

Opposed: None

Motion Granted

Item #8

BOA-22-10300006: A request by Claburn Jones for a 1' side setback variance from the minimum 5' side setback requirement to allow a detached structure with 1' 5" overhang to be 4' away from side property line, located at 606 East Nottingham. Staff recommends Approval. (Council District 10) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 27 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition, and no response from the Oak Park North Neighborhood Association.

Evan Jones, applicant, requested a 1-foot setback variance.

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-22-10300006 as presented.

Manna made a **motion** for BOA-22-10300006 for approval.

Regarding Case No. BOA-22-10300006, I move that the Board of Adjustment grant a request for a 1' side setback variance from the minimum 5' side setback requirement to allow a detached structure with 1' 5" overhang to be 4' away from side property line, situated at 606 East Nottingham Drive, applicant being Claburn Jones, 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 allow a detached structure to be 4' away from side property line. Other setback requirements are being met, so 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.*

A literal enforcement of the ordinance would result in the applicant having to relocate the partially-constructed structure to be 5' from side property line. This wouldn't allow the existing concrete slab to be utilized, 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. A 1' side setback variance from the minimum 5' side setback requirement will observe the spirit of the ordinance.

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

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

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

Staff has shown the request for a 1' variance for a side setback provides adequate space from the adjacent property line and is not likely to negatively impact the adjacent neighboring 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.*

Staff finds the plight of the owner of the property for which the variance is sought is not merely financial and is due to unique circumstances existing on the property such as the previously existing structure.

Second: Cruz

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

Opposed: None

Motion Granted

Item #10 Approval of the minutes from the Zoning Board of Adjustment meeting on February 7, 2022.

Motion: Manna made a **motion** for Approval of the February 7, 2022 minutes as amended.

Second: Kaplan

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

Opposed: None

Minutes approved as amended.

Announcement:

Director's Report: Update on 2022 UDC Code Amendments.

Adjournment

There being no further business, the meeting was adjourned at 4:28 P.M.

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary