



DRAFT

Board of Adjustment Minutes

Development and Business Services

Center

1901 South Alamo

January 24, 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, Cruz, Manna, Bragman, Delmer, Kaplan, 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*

Election of Officers

Ms. Cruz nominated Mr. Teel for Pro-Tem.

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

Opposed: None

Mr. Teel was granted the Pro-Tem position.

Chair Oroian nominated Mr. Ozuna for Vice-Chair.

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

Opposed: None

Mr. Ozuna was granted the Vice-Chair position.

Mr. Teel nominated Mr. Oroian for Chair.

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

Opposed: None

Mr. Oroian was granted the chair position.

Item #1

(Continued from 12/20/2021) BOA-21-10300159: A request by Rey Gutierrez for 1) a 4' 11" variance from the 5 foot minimum rear and side setback requirement to allow an accessory detached dwelling unit to be 1" from the side and rear property line and 2) a 2,164 square foot variance from the 4,000 square foot minimum requirement to allow a 1,836 square foot lot size, located at 1118 South Mesquite Street. Staff recommends Denial with an Alternate Recommendation. (Council District 2) (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, 1 returned in favor, 0 returned in opposition, and no response from the Denver Heights Neighborhood Association.

No Public Comment

Applicant requested a continuance until the February 7, 2022, Board of Adjustment meeting.

Chair Oroian asked for a motion for item BOA-21-10300159 as presented.

Mr. Teel made a **motion** for item BOA-21-10300159 to be continued to February 7, 2022.

Second: Ms. Kaplan

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

Opposed: None

Motion Granted for a continuance for BOA-21-10300159 to February 7, 2022.

Item #2

(Continued from 12/20/2021) 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)

Staff stated 24 notices were mailed to property owners within 200 feet, 0 returned in favor, 1 returned in opposition, and no response from the Dignowity Hill Neighborhood Association. Outside the 200 foot buffer; 5 notices received in opposition.

No Public Comment

Applicant requested a continuance until the February 22, 2022, Board of Adjustment meeting.

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

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

Second: Cruz

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

Opposed: None

Motion Granted for a continuance for BOA-21-10300175 to February 21, 2022.

Item #3

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 no registered neighborhood association.

Patrick Christensen, representative, requested the variance to allow a 3-story building on the property for a multi-family complex. He stated Palo Alto is in support of the project.

Efren Vegara, Developer, answered the board member questions, and stated the number of proposed units planned for the project.

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

Public Comment:

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

Yvette De La Cruz, 1930 W. Mally, spoke in opposition.

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

Chair Oroian asked for a motion for item BOA-21-10300170 as presented.

Mr. Teel made a **motion** for BOA-21-10300170 for approval.

“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: Ms. Bragman

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

Opposed: Menchaca, Kaplan, Cruz, Vasquez

Motion Failed 7-4.

Ms. Kaplan made a **motion to reconsider** BOA-21-10300170.

Second: Vasquez

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

Opposed: Menchaca

Motion Granted to reconsider

Mr. Ozuna made a **motion** for BOA-21-10300170 to be continued to February 21, 2022.

Second: Cruz

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

Opposed: None

Motion Granted for a continuance for BOA-21-10300170 to February 21, 2022.

Item #4

BOA-21-10300183: A request by Mario A Zuazua for a 4' 9" variance from the minimum 5' side setback requirement to allow a patio cover with no overhang to be 3" from side property line, located at 1831 Red Elm. Staff recommends Denial. (Council District 3) Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@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 the Lackland Terrance Neighborhood Association.

Mario Zuazua, applicant, stated the carport was done 10 years ago and believed the contractor had built it to code. He stated this issue arose from a dispute between him and the neighbors due to the neighbor's dog attacking his son and creating a hardship on his family for his son's well-being.

Karen Zuazua, applicant, stated the carport was built 10 years ago, and stated her son feels safe to play on the patio.

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-21-10300183 as presented.

Mr. Teel made a **motion** for BOA-21-10300183 for approval.

"Regarding Case No. BOA-21-10300183, I move that the Board of Adjustment grant a request for a 4' 9" variance from the minimum 5' side setback requirement to allow a patio cover with no overhang to be 3" from side property line, situated at 1831 Red Elm, applicant being Mario A Zuazua, 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 4' 9" variance from the minimum 5' side setback requirement to allow a patio cover with no overhang to be 3" from side property line, which does not appear to be contrary to the public interest as there is adequate space from the adjacent structure.

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 move the post of the structure to 5' away from side property lines which would require a demolishing the covered patio. The limited space in the side yard does not allow for a patio cover to be 5' from the side property line.

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 structure is currently setback 3" from the side property line, contains gutters to control water runoff, and the overhang will be removed. These circumstances 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.*

Staff finds the request for a 4' 9" variance from the minimum 5' side setback requirement is enough space away from the adjacent 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 limited space in the side yard."

Second: Ms. Cruz

Friendly Amendment by Mr. Ozuna to limit the length of the variance to the existing patio.

Mr. Teel and Ms. Cruz both agree with the friendly amendment.

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

Opposed: None

Motion Granted

The Board of Adjustment meeting went into recess at 2:38 pm and reconvened at 2:45 pm.

Item #5

BOA-21-10300188: A request by Tobias Mandujano for 1) a variance of 770 sq. ft. to the 4,000 sq. ft. minimum lot size requirement to allow a residential structure to be built on a lot size of 3,230 sq. ft. and 2) a 9' 4" variance to the minimum required rear setback of 20' to allow a residential structure to be built 10' 8" away from the rear property line, located at 122 Huerta Street. Staff recommends Approval. (Council District 5) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Staff stated 45 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition. No responses from the San Juan Gardens and Collins Gardens neighborhood Association.

Matthew Golf, engineer, presented site plans to the board on the layout of the proposed homes they want to build.

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-21-10300188, as presented.

Ms. Bragman made a **motion** for BOA-21-10300188 for approval.

"Regarding Case No. BOA-21-10300188, I move that the Board of Adjustment grant a request for 1) a 770 sq. ft. variance from the minimum 4,000 sq. ft. requirement to allow a lot size of 3,230 sq. ft. and 2) a 9' 4" variance from the minimum 20' rear setback requirement to allow a residential structure to be built 10' 8" away from the rear property line, situated at 122 Huerta Street, applicant being Tobias Mandujano, 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 a residential structure to be build on a vacant lot that is 3,230 sq. ft. in size and to allow a structure to be 10' 8" away from the rear property line which is not contrary to the public interest as the applicant has adequate space from adjacent structures.

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 not be able to build a structure due to not meeting the minimum lot size requirements.

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 variance and rear setbacks is to allow adequate space between neighboring properties. It appears the spirit of the ordinance is observed as there will be plenty of space between structures which does not pose any fire or life safety issue.

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 minimum lot size variance of 770 sq. ft. and to have a rear setback variance of 9' 4" from the property line 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 in that the lots sizes are similar in the area and other residential structures are built on similar lot sizes. The owner purchased the property with the current lot size it has and it was not altered or subdivided by the owner."

Second: Ms. Cruz

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

Opposed: None

Motion Granted

Item #6

BOA-21-10300190: A request by Luis Gonzalez for a 7' variance from the minimum 10' front setback to allow a carport with 1' 6" overhang to be 3' from the front property line, located at 151 Savannah. Staff recommends Approval. (Council District 1) (Rebecca Rodriguez, Planner (210) 207-0120, Rebecca.Rodriguez@sanantonio.gov, Development Services Department)

Staff stated 32 notices were mailed to property owners within 200 feet, 4 returned in favor, 0 returned in opposition, and no response from Dellview Area Neighborhood Association.

Luis Gonzalez, applicant, stated the street is too narrow to park his vehicles, and the measurements were incorrect. He stated his surrounding neighbors are in support.

Seprotec Translator, translated at the podium for the applicant.

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-21-10300190 as presented.

Mr. Ozuna made a **motion** for BOA-21-10300190 for approval.

"Regarding Case No. BOA-21-10300190, I move that the Board of Adjustment grant a request for a 7' variance from the minimum 10' front setback requirement to allow a carport with 1' 6" overhang to be 3' from the front property line, situated at 151 Savannah, applicant being Luis Gonzalez, 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 3' from the front 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, a functional 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 3' from the front 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 alter the character of the neighborhood. The property is in a neighborhood where carports are frequently 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 sought is due to unique circumstances existing on the property. The property maintains a small front yard and the circumstances are not merely financial.”

Second: Mr. Manna

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

Opposed: None

Motion Granted

Item #7 **BOA-21-10300191:** A request by Melisha Roger Harris for 1) a 2,011 square foot variance from the minimum 4,000 square foot lot size requirement to allow a 1,989 square foot lot, and 2) a 5' variance from the minimum 10' front and rear setback requirement to allow a dwelling to be 5' from the front and rear property lines, located at 203 Gravel Street. Staff recommends Approval. (Council District 2) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 29 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and no response from the Denver Heights Neighborhood Association.

Jeff Henson, 5818 Ginger Rye, developer, stated the owner would like to develop a duplex home 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-21-10300191 as presented.

Ms. Bragman made a **motion** for BOA-21-10300191 for approval.

“Regarding Case No. BOA-21-10300191, I move that the Board of Adjustment grant a request for 1) a 2,011 square foot variance from the minimum 4,000 square foot requirement to allow a 1,989 square foot lot and 2) a 5' variance from the minimum 10' front and rear setback requirement to allow a dwelling to be 5' from the front and rear property lines, situated at 203 Gravel Street, applicant being Melisha Harris, 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 small lot configuration creates an unnecessary hardship as the setbacks required by code will reduce the buildable area considerably, so the variances do 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 postpone any future development of the proposed dwelling if the lot size variance is not granted.

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 separation from adjacent structures and with the small size of the proposed structure and the lot, the spirit of the ordinance will be observed.

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

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

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

The Board finds the variance requests are not likely to negatively affect adjacent neighboring properties nor alter the essential character of the district as there are other similar 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 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 small amount of available space.

Second: Ms. Cruz

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

Opposed: Albert, Kaplan

Motion Granted

Item #8

BOA-21-10300192: A request by Roel Flores for a variance of 2,250 sq. ft. to the required 6,000 sq. ft. minimum lot size requirement to allow a residential structure to be built on a 3,750 sq. ft. lot, located at 123 East Burcham Avenue. Staff recommends Approval. (Council District 3) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Staff stated 36 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition, and no registered neighborhood association.

Roel Flores, applicant, stated he would like to build a home on the 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-21-10300192 as presented.

Mr. Teel made a **motion** for BOA-21-10300192 for approval.

“Regarding Case No. BOA-21-10300192, I move that the Board of Adjustment grant a request for a 2,250 sq. ft. variance from the minimum 6,000 sq. ft. lot size requirement to allow a lot size of 3,750 sq. ft., situated at 123 East Burcham Avenue, applicant being Roel Flores, 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 a lot size of 3,750 sq. ft. in size which is not contrary to the public interest as the applicant has adequate space from any 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 owner would not be able to build a structure due to not meeting the minimum lot size requirements.

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 is sufficient space between the neighboring properties and there will be plenty of space between structures as to not pose any fire, life or safety issue which 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 for a minimum lot size variance of 2,250 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.

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 that the lots sizes are similar in the area and other residential structures are built on similar lot sizes. The owner purchased the property in its current size and shape and it was not altered or subdivided by the owner.

Second: Ms. Cruz

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

Opposed: None

Motion Granted

Item #9

BOA-21-10300193: A request by Maria Elena Luna for 1) a 4' 11" variance from the minimum 5' side setback requirement to allow a carport to be 1" from the side property line, 2) a 8' 5" variance from the minimum 10' front setback requirement to allow a patio structure with 1' 6" overhang to be 1' 7" from the front property line, and 3) a 2' 9" variance from the minimum 5' side setback requirement to allow a patio structure with 2' overhang to be 2' 3" from the side property line, located at 222 Madero Street. Staff recommends Denial with an Alternate Recommendation. (Council District 5) (Rebecca Rodriguez, Planner (210) 207-0120, Rebecca.Rodriguez@sanantonio.gov, Development Services Department)

Staff stated 38 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition. No response from the San Juan Gardens Neighborhood Association and the Collins Garden Neighborhood Association is opposed to the applicant's request but in support of the alternate recommendation.

Maria Luna, applicant, stated the measurements were submitted incorrectly and no permits were pulled by the contractor.

Sepritec Translator, translated at the podium for the applicant.

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-21-10300193, as presented.

Mr. Manna made a **motion** for BOA-21-10300193 for approval.

“Regarding Case No. BOA-21-10300193, I move that the Board of Adjustment grant a request for 1) a 2’ variance from the minimum 5’ side setback requirement to allow a carport to be 3’ from the side property line, 2) a 4’ variance from the minimum 10’ front setback requirement to allow a patio structure 6’ overhang 6’ from the front property line, and 3) a 2’ variance from the minimum 5’ side setback requirement to allow a patio structure with 2’ overhang to be 3’ from the side property line, situated at 222 Madero, applicant being Maria Elena Luna, 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 3’ from the side property line and a porch cover to be 4’ from the front property line and 3’ from the side property line. These requests do 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, a sizable carport and porch cover 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 3 ft from the side property line as there was a structure there previously and a porch cover to maintain 6ft and 3ft from the front and side property line, respectively.

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 structures do not cause any concern and do not appear to substantially injure uses of adjacent conforming properties or the character of the neighborhood. The property is part of the original 36 square miles of the City of San Antonio, thus small lots are observed where carport and porch covers cannot meet the minimum setback requirements.

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

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 property is small in square footage and the primary residence was built close to the front property line. The circumstances are not merely financial.”

Second: Mr. Teel

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

Opposed: Cruz

Motion Granted

Item #10

BOA-21-10300194: A request by Carlos Ornelas for 1) a 5’ 5” variance from the 10’ front setback requirement to allow a carport to be 4’ 7” from the front property line and 2) a 4’ 1” variance from the minimum 5’ side setback requirement to allow a carport with 5” overhang to be 11” from the side property line, located at 158 Hartford Avenue. Staff recommends Denial with an Alternate Recommendation. (Council District 3) (Richard Bautista-Vazquez, Planner (210) 207-0215, Richard.Bautista-Vazquez@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 Highland Hills Neighborhood Association.

Carlos & Michelle Ornelas, applicant, requested the variance to continue to build the carport to protect the vehicles. He stated they were unaware of the permit process for the carport. Carlos Ornelas amended the request to include gutters.

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-21-10300194, as presented.

Mr. Teel made a **motion** for BOA-21-10300194 for approval.

“Regarding Case No. BOA-21-10300194, I move that the Board of Adjustment grant a request for 1) a 4’ 1” variance from the minimum 5’ side setback requirement to allow a carport with 5” overhang to be 11” from the side property line, situated at 158 Hartford Avenue, applicant being Carlos Ornelas, 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 to construct a carport with 5” overhang that is to be 4’ 7” from the front property line and 11” from the side property line. The requests do not seem 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 move the post of the structure to 5’ away from side property lines which would require a possible demolition of the carport to build. The width of the carport is 9’ 6” which is enough space to park one vehicle 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 side setback is intended to provide space between structures, but the carport is constructed of metal, which is a fire-rated material. This spirit of the ordinance appears to be observed as the structure is only able to fit the width of one vehicle.

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.

Many other carports were observed in the surrounding area, so the requested variances do not appear to be injuring adjacent conforming properties or altering the essential character of the district. The applicant amended the request to include gutters.

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 small amount of available width and length of the driveway and is not merely financial

Second: Manna

Friendly amendment by Mr. Manna to add on #5 the applicant amended the request to include gutters. Amendment was accepted by Mr. Teel.

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

Opposed: None

Motion Granted

The side setback was staff's recommendation of 2 ft and no motion was made on the front setback, and needs to meet the 10ft setback requirement.

Item #11

BOA-21-10300197: A request by Jason Trujillo for 1) a 1' 2" special exception from the maximum 3' solid screen fence height restriction to allow a 4' 2" solid screened fence in the front yard, 2) a 1' 8" variance from the 5' side setback requirement to allow a detached garage to be 3' 4" from the side property line, 3) a 15' 1" variance from the 20' minimum garage setback requirement to allow a detached garage to be 4' 11" from the rear property line, and 4) a 10' 4" variance from the Clear Vision Standards to allow a solid screened fence to be 4' 8" from the curb, located at 601 Hunstock Avenue. Staff recommends Denial with an Alternate Recommendation. (Council District 5) (Kayla Leal, Principal Planner (210) 207-0197, Kayla.Leal@sanantonio.gov, Development Services Department)

Staff stated 40 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and no response from Roosevelt Park Neighborhood Association.

Jason and Leandra Trujillo, applicant, stated the request is to construct a new garage appropriately to fit on the property and to stay in compliance with the City. Jason Trujillo stated to include SK003 (sketch plan presented) as part of the formal application.

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-21-10300197, as presented.

Mr. Ozuna made a **motion** for BOA-21-10300197 for approval.

“Regarding Case No. BOA-21-10300197, I move that the Board of Adjustment grant a 1’ 2” special exception from the maximum 3’ solid screen fence height restriction to allow a 4’ 2” solid screened fence in the front yard, situated at 601 Hunstock Avenue, applicant being Jason Trujillo, 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 1’ 2” of height is intended to provide additional safety 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. The fence isn’t completely solid-screened which still serves the public welfare and convenience.

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 front yard fence does not appear to 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: Manna

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

Opposed: None

Motion Granted

Mr. Ozuna made a **motion** for BOA-21-10300197 for approval.

“Regarding Case No. BOA-21-10300197, I move that the Board of Adjustment grant a request for a 1) a 1’ 8” variance from the 5’ side setback requirement to allow a detached garage to be 3’ 4” from the side property line, 2) a 15’ 1” variance from the 20’ minimum garage setback requirement to allow a detached garage to be 4’ 11” from the rear property line, and 3) a variance of the Clear Vision Standards as provided in the applicant’s sketch and testimony that was presented before the board for a solid screen fence to be located per the applicant’s sketch, situated at 601 Hunstock Avenue, applicant being Jason Trujillo, 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 detached garage is being proposed 3’ 4” from the side property line and 4’ 11” from the rear property line. These variance requests do not appear contrary to the public interest due to the limited space existing on the property and the existing concrete slab. The variance to the clear vision as amended 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. The configuration and depth of the lot does not provide enough space to meet the 20’ garage setback, so a literal enforcement of the ordinance would result in 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 variances to the clear vision, side setback, and garage setback do appear to observe the spirit of the ordinance. The shape of the lot is unusual and the limited space of the rear yard present an unnecessary hardship.

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 detached garage will maintain 3' 4" from the side property line and 4' 11" from the rear property line. These distances are not likely to alter the essential character of the district as there is a garage with a similar approach adjacent to the property. The existing fence also does not appear to substantially injure 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 unusual configuration of the lot and is not merely financial.

Second: Kaplan

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

Opposed: None

Motion Granted

Item #12 Consideration and approval of January 10, 2022 Board of Adjustment meeting minutes.

Motion: Chair Oroian asked for a motion for approval of the January 10, 2022 minutes.

Mr. Manna made a **motion** for approval of the January 10, 2022 minutes as amended.

Second: Kaplan

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

Opposed: None

Abstained: Bragman

Minutes approved.

Adjournment

There being no further business, the meeting was adjourned at 4:50 P.M.

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary