

12. Approval of the minutes from the Board of Adjustment meeting on April 15, 2024.

## City of San Antonio



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

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**Monday, April 15, 2024**

**1:00 PM**

**1901 S. Alamo**

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**1:01 PM – Call to Order**

**Worldwide Interpreter presented.**

**Chair Oroian administers Oath of Office to appointed commissioner, Luis Gomez.**

**Roll Call – Present:** Brereton, Stevens, Gomez, Ybanez, Cruz, Manna, Ozuna, Benavides (WebEx), Dean, Vasquez

**Absent:** Bragman

Postponed

Item #1\_BOA-24-10300034-located at 6364 Interstate 35 North.

### **THE FOLLOWING ITEMS MAY BE CONSIDERED AT ANY TIME DURING THE REGULAR MEETING:**

Kristie Flores, Planning Manager, stated into the record a request by the applicant for a continuance for BOA-23-10300263 to May 20, 2024.

#### **Item #5**

BOA-23-10300263: (Continued from 3/18/2024) A request by Eluterio Tenorio for Appealing a Certificate of Appropriateness, located at 620 South Presa Street. Staff recommends Denial. (Council District 1) (Mirko Maravi, Principal Planner (210) 207-0107, [Mirko.Maravi@sanantonio.gov](mailto:Mirko.Maravi@sanantonio.gov), Development Services Department)

#### **Public Comment**

##### **Voicemail**

Vincent Michael, San Antonio Conservation Society, spoke in opposition.

**Motion**

A motion was made by Commissioner Manna to continue case **BOA-23-10300263** to May 20, 2024, and was seconded by Commissioner Ozuna.

A verbal vote was taken, and all voted in affirmative.

**MOTION PASSES**

**Item #7**

**BOA-24-10300002**: A request by SS Engineer PLLC for 1) a 154' variance from the required 200' separation to allow the use of a mobile food court within 46' of a residential lot, and 2) a 3' variance from the minimum 15' landscape buffer to allow a 12' landscape buffer, located at 10000 Block of Culebra Road. Staff recommends Denial. (Council District 6) (Melanie Clark, Planner, 210-207-5550, [melanie.clark@sanantonio.gov](mailto:melanie.clark@sanantonio.gov), Development Services Department)

**No Public Comment**

A motion was made by Commissioner Manna to continue case **BOA-23-10300002** to May 6, 2024, and was seconded by Commissioner Ozuna.

A verbal vote was taken, and all voted in affirmative.

**MOTION PASSES**

**Item #16**

**BOA-24-10300038**: A request by LiftFund Inc. for a 1' special exception from the maximum 5' fence height to allow 6' predominantly open fence in the front yard, located at 2007 West Martin Street. Staff recommends Approval. (Council District 5) (Mirko Maravi, Principal Planner (210) 207-0107, [Mirko.Maravi@sanantonio.gov](mailto:Mirko.Maravi@sanantonio.gov), Development Services Department)

**Public Comment**

**Voicemail**

Maricela Garza, President of Gardendale Neighborhood Association, spoke in support.  
JR, spoke in support.

A motion was made by Commissioner Ozuna to continue case **BOA-23-10300038** to April 22, 2024, and was seconded by Commissioner Cruz.

A verbal vote was taken, and all voted in affirmative.

**MOTION PASSES**

Chair Orian, stated BOA-24-10300034 is postponed.

**Item #17**

Approval of the minutes from the Board of Adjustment meeting on March 18, 2024.

A motion was made by Commissioner Ozuna and seconded Commissioner Cruz for approval of the March 18, 2024, minutes.

A verbal vote was taken, and all voted in affirmative.

## **MOTION PASSES**

### **Item #2**

**BOA-24-10300022:** (Continued from 03/18/2024) An appeal by Adrian Chaplin of the Administrator's decision to revoke the short term rental permit, located at 2831 Whisper View Street. Staff recommends Denial. (Council District 9) (Juan Alvarez, Planner (210) 207-7232 , [Juan.Alvarez2@SanAntonio.gov](mailto:Juan.Alvarez2@SanAntonio.gov), Development Services Department)

Staff stated 30 notices were mailed to property owners, 0 returned in favor, 14 returned in opposition, Whispering Oaks Homeowner Association is in opposition.

Adrian Chaplan, applicant, stated information was sent to an old email address. That address is not monitored. When checking their balance, the system stated they were not in arrears. Mr. Chaplin stated communication with the City was challenging.

### **Public Comment**

Shirly Carter, spoke in opposition.

Peter Elias, spoke in opposition.

### **Voicemail**

Brianna Eilers, spoke in opposition.

Whispering Hills Neighborhood Association, spoke in opposition.

### **Rebuttal**

Mr. Chaplan stated he experienced glitches when attempting to make payment on the older system, Legacy.

Zabrina Garza, Finance Administrator, confirmed payment for August, November, and December was made on January 24, 2024.

### **Motion**

A motion was made by Commissioner Cruz. Regarding Case No. BOA-24-10300022, I move that the Board of Adjustment grant the appeal for the property, situated at 2831 Whisper View, applicant being Adrian Chaplin, because the information provided by the applicant shows that City staff made an error in enforcing Section 16-1110(d) when revoking the Short-Term Rental permit.

The motion was seconded by Commissioner Ybanez.

**Favor:** Stevens, Ybanez, Gomez, Manna, Benavides, Ozuna, Oroian.

**Opposed:** Brereton, Cruz, Dean, Vasquez.

**MOTION FAILS****Item #3**

**BOA-24-10300005:** (Continued from 03/18/2024) A request by Jonathan Clarke for a Special Exception to allow one (1) additional Type 2 Short Term Rental permit on the block face, per UDC Section 35-374.01(c), located at 825 E Park Ave. Staff recommends Denial. (Council District 1) (Juan Alvarez, Planner (210) 207-7232 , Juan.Alvarez2@SanAntonio.gov, Development Services Department)

Staff stated 28 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, no response from Sojo Crossing Homeowner Association; Tobin Hill Neighborhood is in opposition. No response from San Antonio Texas District One Resident Association.

Johnathan Clarke, applicant's representative, stated the property was inherited after a death in the family. A letter of support and a video of the surrounding area was presented.

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

A motion was made by Commissioner Ozuna. Regarding Case No. BOA-24-10300005, I move that the Board of Adjustment grant a special exception to allow for (1) Type 2 short term rental unit, situated at 825 East Park Avenue, applicant being Jonathan Clarke , 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 not materially endanger the public health or safety.*

**The Board finds that the request to operate an additional short term rental is unlikely to materially endanger the public health, safety, or welfare. There is nothing obvious that would distinguish a short term rental versus a long term rental at this facility.**

B. *The special exception does not create a public nuisance.*

**There does not appear to be a reason to believe a public nuisance would be created if an additional short term rental permit was approved.**

C. *The neighboring property will not be substantially injured by such proposed use.*

**The neighboring properties consist of single-family and multi-family structures. This scenario does not cause reason to believe it will substantially injure neighboring property as a Type 2 Short Term Rental.**

*D. Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary faculties have been or are being provided.*

**The subject property provides off-street parking and appears to have adequate utilities, access, and open space.**

*E. The applicant or owner for the special exception does not have any previously revoked short term rental licenses, confirmed citations, or adjudicated offenses convictions for violations of Chapter 16, Article XXII of the City Code within one year prior to the date of the application.*

**The applicant did have confirmed citations, however, are closed and are being remedied by the boards decision today.**

*F. The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought.*

**The subject property is located in close proximity to other residential. With the property owner providing off-street parking and maintaining it from the neighboring property, the special exception does not appear to alter the essential character of the district and location in which the property is seeking the special exception.**

The motion was seconded by Commissioner Brereton.

**Favor:** Brereton, Gomez, Cruz, Ozuna, Stevens, Vasquez, Oroian.

**Opposed:** Ybanez, Manna, Benavides, Dean.

## **MOTION PASSES FAILS**

### **Item #4**

**BOA-24-10300033:** A request by Antonio Pacheco for a Special Exception to allow one (1) additional Type 2 Short Term Rental permit on the block face, per UDC Section 35-374.01(c)., located at 913 Leal Street Unit 1. Staff recommends Denial. (Council District 5) (Joseph Leos, Senior Planner (210) 207-0315, Joseph.Leos@sanantonio.gov, Development Services Department)

Staff stated 47 notices were mailed to property owners, 1 returned in favor, 0 returned in opposition, no response from Gardendale and West End Hope in Action Neighborhood Association and San Antonio Texas District One Resident Association, outside 200': 1 in favor, the Shot Term Rental Association of San Antonio is opposed.

Alfonso and Olivia Pacheco, the applicants, stated their Short-Term Rental Unit Has improved the community. The area is kept clean and there is less traffic.

### **Public Comment**

Ofelia Zavala, spoke in opposition.

### **Voicemail**

Mariela Garza, spoke in support.

Citizen, spoke in support.

**Rebuttal**

Mr. and Mrs. Pacheco stated that their neighbors are thankful that the neighborhood is cleaner with less traffic.

**Motion**

A motion was made by Commissioner Cruz. Regarding Case No. BOA-24-10300033, I move that the Board of Adjustment grant a special exception to allow for (1) Type 2 short term rental unit, situated at 913 Leal Street, applicant being Antonio Pacheco, 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 not materially endanger the public health or safety.*

**The Board finds that the request to operate an additional short term rental is unlikely to materially endanger the public health, safety, or welfare. There is nothing obvious that would distinguish a short term rental versus a long term rental at this facility.**

*B. The special exception does not create a public nuisance.*

**There does not appear to be a reason to believe a public nuisance would be created if an additional short term rental permit was approved.**

*C. The neighboring property will not be substantially injured by such proposed use.*

**The neighboring properties consist of single-family structures. This scenario does not cause reason to believe it will substantially injure neighboring property as a Type 2 Short Term Rental.**

*D. Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary faculties have been or are being provided.*

**The subject property provides off-street parking and appears to have adequate utilities, access, and open space.**

*E. The applicant or owner for the special exception does not have any previously revoked short term rental licenses, confirmed citations, or adjudicated offenses convictions for violations of Chapter 16, Article XXII of the City Code within one year prior to the date of the application.*

**The applicant does not have any history of revocation, citations, or convictions for violations of Chapter 16.**

*F. The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought.*

**The subject property is located in close proximity to other residential. With the property owner providing off-street parking and maintaining it from the neighboring property, the special exception does not appear to alter the essential character of the district and location in which the property is seeking the special exception.**

The motion was seconded by Commissioner Manna.

**Favor:** Benavides, Cruz, Ozuna, Vasquez, Oroian.

**Opposed:** Brereton, Stevens, Gomez, Ybanez, Manna, Dean.

## **MOTION PASSES FAILS**

### **Item #6**

**BOA-24-10300035:** A request by Richard Gonzalez to appeal a Certificate of Appropriateness decision to 1) replace existing wood windows, and 2) replace fenestration pattern, located on 504 North Hackberry Street. Staff recommends Denial. (Council District 2) (Mirko Maravi, Principal Planner (210) 207-0107, Mirko.Maravi@sanantonio.gov, Development Services Department).

Staff stated 31 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, Dignowity Hill Neighborhood Association is opposed; 1 opposed outside 200'.

Bryan Morales, Historic Preservation Specialist, presented a case history.

Chair Oroian, requested clarification on burglar bars.

Bryan Morales, Historic Preservation Specialist, stated the removal of burglar bars can be approved administratively.

Eddie Bravin, applicant's representative, stated the windows were all metal, and not historic. He also brought the real estate agent to confirm window were not historic.

The applicant amends the application to remove Fenestration pattern from the request.

OHP Staff stated that the applicant has to return all the window fenestration to the previously existing sizes across locations and elevations.

### **Public Comment**

#### **Voicemail**

Dignowity Hill, spoke in opposition.

Conservation Society, spoke in opposition.

### **Motion**

A motion was made by Commissioner Manna to continue case **BOA-23-10300035** to May 20, 2024, and was seconded by Commissioner Cruz.

A verbal vote was taken, and all voted in affirmative.



**Favor:** Benavides, Cruz, Ozuna, Vasquez, Oroian, Brereton, Stevens, Gomez, Ybanez, Manna,  
**Opposed:** Dean

**MOTION PASSES**

**Commission went into recess at 3:20 pm and reconvened at 3:28 pm**

**Item #8**

**BOA-24-10300030:** A request by Coral Studio for a variance to remove the "FBZD" Form Based Zoning District Development streetscape tree planting requirements along the exterior of the property, located on 1000 North Alamo Street. Staff recommends Approval. (Council District 1) (Mirko Maravi, Principal Planner (210) 207-0107, Mirko.Maravi@sanantonio.gov, Development Services Department)

Staff stated 14 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, no registered Neighborhood Association.

Patrick Christensen, applicant's representative, stated the immediate goal is to build a commercial parking lot and tree requirements have been met.

**No Public Comment**

Jacob Sanchez, Assistant City Arborist, stated that landscaping requirements have been met.

**Motion**

A motion was made by Commissioner Ozuna. Regarding Case No. BOA-24-10300030, I move that the Board of Adjustment grant a request to remove the "FBZD" Form Based Zoning District Development streetscape tree planting requirements along the exterior of the property, situated at 1000 North Alamo Street, applicant being Coral Studio 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 proposed removal of street scape planting near existing utilities would not be contrary to the public interest.**

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

**In this case, these criteria are represented by existing utilities along the exterior of the property that would affect required landscaping. The applicant provided alternative landscaping options within the property.**

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

**The variance will not injure neighboring properties as the lack of landscaping along the exterior does not obstruct the line of sight from the neighboring properties.**

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

**The removal of the streetscape landscaping requirement does not directly impact the proposed parking lot land use. At its current design it does not alter the essential characteristics of 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.

**If granted, the variance would not alter the general purpose of the district, or the regulations herein established for the specific 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 subject property is located adjacent to existing utilities along North Alamo Street, the FBZD streetscape landscaping requirements may directly impact the operation of the existing utilities.**

The motion was seconded by Commissioner Manna.

**Favor:** Brereton, Ybanez, Cruz, Benavides, Ozuna, Stevens, Kaplan, Manna, Vasquez, Dean, Oroian.

**Opposed:** None.

## **MOTION PASSES**

### **Item #15**

**BOA-24-10300044:** A request by CKG Freedom Venture Capital LLC for a 9'-11" variance from the minimum 10' carport setback to allow a 1" carport setback, located at 339 Olney Drive. Staff recommends Approval. (Council District 2) (Mirko Maravi, Principal Planner (210) 207-0107, Mirko.Maravi@sanantonio.gov, Development Services Department)

Staff stated 32 notices were mailed to property owners, 0 returned in favor, 1 returned in opposition, no registered Neighborhood Association.

Gerardo Martinez, applicant, stated he purchased the home for his daughter. He was requesting a carport to protect his vehicle.

### **Public Comment**

#### **In Person**

Luis Alfonso, spoke in support.

#### **Motion**

A motion was made by Commissioner Manna. Regarding Case No. BOA-24-10300044, I move that the Board of Adjustment grant a request for a 9'-11" variance from the minimum 10' carport setback to allow a 1" carport setback, only as currently built, not to be widened situated at 339 Olney Drive, applicant being CKG Freedom Venture Capital LLC, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

**Staff finds that the requested variance is not contrary to the public interest as it is currently 10' from the right of way and no fence or gate is present to create a clear vision issue.**

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

**A literal enforcement of the ordinance would result in unnecessary hardship as it would leave no room for a vehicle and can maintain a safe distance of approximately 10' from the street.**

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

**Staff finds the spirit of the ordinance will be observed and substantial justice will be done as there can be no fence constructed to create a clear vision issue without a separate variance and the carport maintains an approximate 10' distance from the street.**

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 variance will not substantially injure the appropriate use of adjacent conforming property as there is an alley separating the side yards.**

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 for which the variance is sought is due to unique circumstances existing on the property, such as the 10' distance from the street to the side property line.**

The motion was seconded by Commissioner Cruz.

**Favor:** Brereton, Ybanez, Gomez, Cruz, Benavides, Ozuna, Dean, Stevens, Vasquez, Manna, Oroian.

**Opposed:** None.

## **MOTION PASSES**

### **Item #9**

**BOA-24-10300041:** A request by David Guzman for 1) a variance from the fence materials to allow for a corrugated metal fence, and 2) a variance from the drainage and surfacing standards, located at 2140 Frio City Road. Staff recommends Denial. (Council District 5) (Mirko Maravi, Principal Planner (210) 207-0107, [Mirko.Maravi@sanantonio.gov](mailto:Mirko.Maravi@sanantonio.gov), Development Services Department)

Staff stated 17 notices were mailed to property owners, 1 returned in favor, 0 returned in opposition, no response from the El Charro or Quintana Neighborhood association.

David Guzman, the applicant, stated he is requesting a nonconforming use. His fence has been set up for 29 years.

Rchael Parrish, Development Services Engineer, marked parking spots do not need to be paved, and driveways are not parking lots.

### **No Public Comment**

### **Motion**

A motion was made by Commissioner Manna. Regarding Case No. BOA-24-10300041, I move that the Board of Adjustment grant a request for a variance from the fence materials to allow for a corrugated metal fence situated at 2140 Frio City Road, applicant being David Guzman, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

**In this case, the public interest is represented by fence material and surface standards. The request is not contrary to the public interest as the surrounding area historically used corrugated metal and the surfacing variance is only required on a portion of the property.**

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

**A literal enforcement of the ordinance would result in an unnecessary hardship as the fence material fits in the industrial area and the use is not impacted by the current surfacing of the lot.**

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

**The variances observe the spirit of the ordinance as the location and use of the property are located in an established industrial area.**

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

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

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

**If granted, the variances will be similar to the established surrounding developments and 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.*

**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 surfacing and additional security the fencing material provides.**

The motion was seconded by Commissioner Ybanez.

Commissioner Manna remarked he did not read Item #2 and desired the item to be separated from Item #1.

**Favor:** Brereton, Ybanez, Gomez, Cruz, Benavides, Ozuna, Dean, Stevens, Vasquez, Manna, Oroian.

**Opposed:** None.

## **MOTION PASSES**

**No motion made for Item #2.**

### **Item #10**

**BOA-24-10300043:** A request by Restaurant Repair Company for a 40' variance from the minimum 60' Northeast Gateway Corridor front setback to allow a structure to be 20' from the corridor front setback, located at 9911 Interstate 35 North. Staff recommends Denial. (Council District 2) (Melanie Clark, Planner, 210-207-5550, melanie.clark@sanantonio.gov, Development Services Department)

Staff stated 5 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, no registered Neighborhood Association within 200'.

Brittany Pleasant applicant's representative stated they were seeking a setback. The applicant stated the property was purchased with a slab.

### **No Public Comment**

### **Motion**

A motion was made by Commissioner Oroian. Regarding Case No. BOA-24-10300043, I move that the Board of Adjustment grant a request for a 40' variance from the minimum 60' Northeast Gateway Corridor front setback to allow a structure to be 20' from the corridor front setback, situated at 9911 Interstate 35 North, applicant being Restaurant Repair Company 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 requested variance is not contrary to the public interest as the front setback variance will not negatively affect the right of way along the front property line.**

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

**A literal enforcement of the ordinance would result in unnecessary hardship as the structure was constructed to align with the original building to maintain safety and efficiency of distribution for employees and customers.**

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

**The request observes the spirit of the ordinance as the structure's distance from the corridor will not impede clear vision requirements or injure neighboring properties in the surrounding area.**

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

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

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

**Staff finds that the requested variance would not injure neighboring conforming properties and is not out of character for 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.*

**Staff finds the plight of the owner of the property for which the variance is sought due to unique circumstances existing on the property such as irregular shape of the lot and placement of original structure.**

The motion was seconded by Commissioner Ozuna.

**Favor:** Brereton, Ybanez, Gomez, Cruz, Ozuna, Vasquez.

**Opposed:** Stevens, Benavides, Manna, Dean, Oroian.

## **MOTION FAILS**

Motion made to reconsider Item #10 BOA-24-10300043: by Chair Oroian and seconded by Commissioner Ozuna to reconsider.

**Favor:** Brereton, Ybanez, Gomez, Cruz, Ozuna, Vasquez Stevens, Benavides, Manna, Dean, Oroian.

**Opposed:** None.

## **MOTION PASSES**

Motion made by Chair Oroian and seconded by Commissioner Ozuna to allow a 30' variance setback.

**Favor:** Brereton, Ybanez, Gomez, Cruz, Ozuna, Vasquez, Stevens, Benavides, Oroian.

**Opposed:** Dean, Manna

**MOTION PASSES****Item #11**

**BOA-24-10300027**: A request by Jose Miguel Figueroa Serrano for a 4'-11" variance from the minimum 5' side setback to allow a 1" side setback, located on 222 Castroville Road. Staff recommends Approval. (Council District 5) (Mirko Maravi, Principal Planner (210) 207-0107, [Mirko.Maravi@sanantonio.gov](mailto:Mirko.Maravi@sanantonio.gov), Development Services Department)

Staff stated 42 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, Prospect Hill Neighborhood Association is opposed, no response from El Charro Neighborhood Association.

Miguel Figueroa, applicant, stated that he built new construction on the existing footprint.

Applicant formally amends to add gutters.

**Public Comment**

Russel Felan, President of Prospect Hill Neighborhood Association, spoke in favor with fire rating (4'11") cut the overhang, and a 1-hour firewall on the inside and well as the stucco.

**Motion**

A motion was made by Commissioner Manna. Regarding Case No. BOA-24-10300027, I move that the Board of Adjustment grant a request for a 4'-11" variance from the minimum 5' side setback to allow a 1" side setback, situated at 222 Castroville Road, applicant being Jose Miguel Figueroa Serrano, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

**In this case, the public interest is represented by the reduced side setback. While the setback is reduced, the setbacks are established within the area that directly abuts the neighboring driveway.**

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

**Staff did find special condition on the property that a literal enforcement of the ordinance would create an unnecessary hardship. The proposed development would be limited in area on the 40-foot lot.**

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



**By granting the variance, the spirit of the ordinance will be observed as increased separation exists with the adjacent property.**

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 requested variance will not substantially injure the use of the adjacent conforming property as there will be significantly reduced distance between structures.**

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 unique circumstances existing on the property that warrant the approval of a reduced setback. The current structure and structures in the area maintain a similar setback throughout the area.**

**The motion was seconded by Commissioner Cruz.**

**Favor:** Brereton, Ybanez, Gomez, Cruz, Benavides, Ozuna, Dean, Stevens, Vasquez, Manna, Oroian.

**Opposed:** None.

**MOTION PASSES**

**Item #12**

**BOA-24-10300031:** A request by Claudia Berteaux for a 2' variance from the minimum 5' side setback requirement to allow an addition to be 3' from the side setback, located at 415 Cedar Street. Staff recommends Approval, limited to a 5' width. (Council District 1) (Melanie Clark, Planner, 210-207-5550, melanie.clark@sanantonio.gov, Development Services Department)

Staff stated 27 notices were mailed to property owners, 1 returned in favor, 0 returned in opposition, King Williams Neighborhood Association is in favor.

Claudia Berteaux, applicant, requested a setback to accommodate the structure built for the water softener. They proceeded to go with a plumbers recommendation of the minimum size with the intention of keeping its original size.

**No Public Comment**

**Motion**

A motion was made by Commissioner Ozuna. Regarding Case No. BOA-24-10300031, I move that the Board of Adjustment grant a request for a 2' variance from the minimum 5' side setback requirement to allow an addition to be 3' from the side setback limited to a 5' width, situated at 415 Cedar Street, applicant being Claudia Berteaux, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

**In this case, the public interest is represented by restricted setbacks to provide adequate spacing between properties. The variance is not contrary to the public interest as the reduced setback is limited by the width of the addition of 5'.**

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

**A literal enforcement of the ordinance would result in an unnecessary hardship as this would reduce the square footage of the utility closet rendering it impractical for use due to the narrow lot.**

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

**The addition would be 3' the side property line, which observes the spirit of the ordinance as the structure will be abiding by all other building requirements.**

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.*

**If granted, the addition, limited to a maximum width of 5', will be 3' from the side property line, which will not injure the neighboring property and 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.*

**Staff finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, such as limited side yard space. The circumstances do not appear to be merely financial.**

The motion was seconded by Commissioner Brereton.

**Favor:** Brereton, Ybanez, Gomez, Cruz, Benavides, Ozuna, Dean, Stevens, Vasquez, Manna, Oroian.

**Opposed:** None.

## **MOTION PASSES**

### **Item #13**

**BOA-24-10300040:** A request by Jose Salazar for 1) a 4'-11" variance from the minimum 5' side setback to allow an attached carport to be 1" from the side setback, and 2) a 9'-11" variance from the minimum 10' front setback to allow a 1" attached carport front setback, located at 3810 East Palfrey Avenue. Staff recommends Approval. (Council District 3) (Melanie Clark, Planner, 210-207-5550, melanie.clark@sanantonio.gov, Development Services Department)

Staff stated 31 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, no response from Highland Hills Neighborhood Association.

Jose Salazar, applicant, requested the variance so that a carport can provide protection to his vehicles from sun and hail damage.

### **No Public Comment**

### **Motion**

A motion was made by Commissioner Manna. Regarding Case No. BOA-24-10300040, I move that the Board of Adjustment grant a request for 1) a 4'-11" variance from the minimum 5' side setback to allow an attached carport to be 1" from the side setback and 2) a 9'-11" variance from the minimum 10' front setback to allow a 1" attached carport front setback, situated at 3810 East Palfrey Avenue, applicant being Jose Salazar, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

**In this case, the public interest is represented by adhering to setback requirements to provide adequate spacing between properties and right-of-way. The request is not contrary to the public interest as the historically established carport front setback in the area is at 1" and the neighboring structure has sufficient space from the proposed carport.**

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

**A literal enforcement of the ordinance would result in an unnecessary hardship as the carport width would only allow 1 vehicle with limited coverage.**

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

**The request would not injure neighboring properties, as the adjacent structure is built beyond the required side setback and the historical placement of the carports in the area are at the current 1” front setback.**

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 side and front setbacks would not alter the essential character of the district as other similar carport front setbacks were observed and sufficient distance from adjacent structure will exist.**

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 as the historical placement of the front carport setbacks and the limited space for two covered vehicles.**

The motion was seconded by Commissioner Cruz.

**Favor:** Brereton, Ybanez, Gomez, Cruz, Benavides, Ozuna, Dean, Stevens, Vasquez, Manna, Oroian.

**Opposed:** None.

## **MOTION PASSES**

### **Item #14**

**BOA-24-10300042:** A request by CDS Muery for 1) a 2’ special exception from the maximum 8’ fence height to allow a 10’ fence, and 2) an 8’-6” variance from the 30’ side setback to allow a barbed wire fence on a 21’-6” side setback, located at 2215 Belknap Place. Staff recommends

Approval. (Council District 1) (Mirko Maravi, Principal Planner (210) 207-0107, Mirko.Maravi@sanantonio.gov, Development Services Department)

Staff stated 34 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, no response from Monte Vista Terrace Neighborhood Association.

Jose Salazar, applicant, requested the variance so that a carport can provide protection to his vehicles from sun and hail damage.

Cal Lestie, applicant representing CPS, spoke to introduce the request, stating it is a CPS project.

Brian Crowell, co-applicant, representing CDS Muery, spoke to the details of the project.

### No Public Comment

### Motion

A motion was made by Commissioner Cruz. Regarding Case No. BOA-24-10300042, I move that the Board of Adjustment grant a request for 1) 2' variance from the maximum 8' fence height to allow a 10' fence and 2) an 8'-6" variance from the 30' side setback to allow a barbed wire fence on a 21'-6" side setback, situated at 2215 Belknap Place, applicant being CDS Muery, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

**In this case, the public interest is represented by distance between residential properties in order to have Barbed Wire and a 10' fence. This will not be contrary to the public interest as it will keep over 21-foot distance and the barbed wire will not run parallel to the residential lots. The additional fence height will help separate the industrial use from the residential properties.**

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

**Staff found special conditional that a literal enforcement of the ordinance would result in unnecessary hardship. The shape of the allows an entrance that abuts the residential properties, requiring a reduced setback for Barbed Wire on the entrance gate. The required addition security would result in unnecessary hardship without the additional fence height.**

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

**Staff found that the granting of the variance will be in the spirit of the ordinance and substantial justice will be done as it will leave significant room between the residential properties and the**

**Barbed Wire. The additional fence height will also be in the spirit of the ordinance as it will help shield the residential use from the industrial use.**

*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 requested variances will not substantially injure the appropriate use of the adjacent conforming properties or alter the essential character of the district as it will be located to the rear of the residential properties and the district is surrounded by other industrial zoned lots.**

*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 found the unique circumstances found on the property are due to circumstances not created by the owner of the property as the shape of the lot allows an entrance only through the area closest to the residential properties. The location of the residential properties also creates a unique circumstance that benefits from additional fence height.**

The motion was seconded by Commissioner Manna.

**Favor:** Brereton, Ybanez, Gomez, Cruz, Benavides, Ozuna, Dean, Stevens, Vasquez, Manna, Oroian.

**Opposed:** None.

**MOTION PASSES**

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

**Staff Announcements** – nothing to report

**Adjournment**

There being no further business, the meeting was adjourned at 5:32 PM.

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

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

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