

12. Approval of the minutes from the Board of Adjustment meeting on April 22, 2024 and May 6, 2024.

## City of San Antonio



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

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**Monday, April 22, 2024**

**1:00 PM**

**1901 S. Alamo**

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**1:09 PM – Call to Order**

**Worldwide Interpreter presented.**

**Chair Oroian administers Oath of Office to appointed commissioner, Samuel Stevens.**

**Roll Call – Present:** Brereton, Ybanez, Dean (pg.6) Stevens, Cruz, Manna, Ozuna, Benavides, Bonillas, Bragman Oroian

**Absent:** Gonzalez

#### **Withdrawn**

**Item #1** BOA-24-10300047- located at 5010 Driskill Street.

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

##### **Item #2**

Consideration and recommendation of amendments to Chapter 16 of the Municipal Code, Licenses and Business Regulations, Article XXII Short-Term Rentals. (Monique Kormann, Policy Administrator, Development Services Department, (210) 207-5016, Monique.Kormann@sanantonio.gov)

Logan Sparrow, Development Services Administrator, spoke on the consideration and recommendations to Chapter 16, Municipal Code.

In November of year 2023 DSD provided update to PCDC on Short-Term Rentals.

The STR Task Force focused on 7 areas with a 24 voting members and alternates making the total member count to 38 total.

There were under 1550 volunteer hours and staff dedicated 235 hours and in a span of 4 months 6 meetings were organized.

Proposed changes include Permit Compliance, Civil Enforcement through an administrative hearing office; often view as a quick resolution often resolved in weeks rather than months. Additionally, events and parts, permit fees, LLC vs. individual owners, and platform obligations. Letters of support were received from the Short-Term Rental Association of San Antonio, King William Association, The San Antonio Apartment Association, Hotel and Logging Association, 2 members of the task force (District 3 and District 1)

Jenny Ramirez, Code Enforcement Manager, spoke on criminal Class C Cases which can lead to a civil lawsuit resulting in daily fines and restrictive penalties that can be persued in court.

### **Public Comment**

Shelby Galbraith, STRASA, spoke in support.

Bianaca Maldonado, Tier One Neighborhood Coalition, spoke in support.

### **Voicemail**

Drea Garza, Monachello Neighborhood Association, spoke in favor.

Melissa Ramirez, Development Services Assistant Director, stated there has been internal communication with the Finance Department regarding effective means of owner notification.

Tina Murillo, Finance Department Tax Assessor, emphasized reporting taxes is a state law.

Commissioner Brereton recommended means of notification be done through US Certified Mail.

Chair Oroian moves to accept the City Draft Ordinance with an amendment to section 16-1104.01B adding "Failure to report zero (\$0.00) revenues will result in penalties and interest, and may result in permit revocation".

Commissioner Bragman seconded for approval of the amended ordinance.

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

**Favor:** Oroian, Bragman, Brereton, Stevens, Ybanez, Bonillas, Cruz, Manna, Benavides, Ozuna  
**Opposed:**

### **MOTION PASSES AS AMENDED**

### **Item #3**

**BOA-24-10300052:** A request by Eduardo Gonzalez 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 523 Ruiz St Unit 102. Staff recommends Denial. (Council District 5) (Juan Alvarez, Planner (210) 207-7232, Juan.Alvarez2@SanAntonio.gov, Development Services Department)

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

Eduardo Gomez, the applicant, is seeking another permit. Further stated that parking will not be an issue as there are 8 parking spaces and cameras are available safety purposes. Mr. Gomez has not reached out to the immediate neighbors about his STR.

### **Public Comment**

#### **Voicemail**

Maricela Garza, Gardendale Neighborhood Association, spoke in-favor.

### **Motion**

A motion was made by Commissioner Cruz. Regarding Case No. BOA-24-10300052, I move that the Board of Adjustment grant a special exception to allow for (1) Type 2 Short-Term Rental unit, situated at 523 Ruiz St Unit 102 applicant being Eduardo 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:

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 Ozuna.

**Favor:** Cruz, Ozuna, Bonillas, Bragman,

**Opposed:** Brereton, Stevens, Ybanez, Manna, Benavides, Oroian

## **MOTION FAILS**

### **Item #4**

**BOA-24-10300054:** A request by Nazakat Hossain 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 1005 Essex Street Unit 102. Staff recommends Denial. (Council District 2) (Joseph Leos, Senior Planner (210) 207-0315, Joseph.Leos@sanantonio.gov, Development Services Department)

Staff stated 27 notices were mailed to property owners, 0 returned in favor, 2 returned in opposition, no response from Denver Heights Neighborhood Association.

Nazakat Hossain, the applicant, stated he was seeking a special exception to allow a Type 2 STR. He has 3 units, and two are leased through section 8 housing.

### **Public Comment**

#### **Voicemail**

Chris McKnight spoke in opposition.

### **Rebuttal**

Properties closely vetted to ensure safety. There are no current violations, and someone is always available if needed.

### **Motion**

A motion was made by Commissioner Bragman. Regarding Case No. **BOA-24-10300054**, I move that the Board of Adjustment grant a special exception to allow for (1) Type 2 Short-Term Rental unit, situated at 1005 Essex Street Unit 102, applicant being Nazakat Hossain, 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 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 Bonillas.

**Favor:** Bragman, Bonillas, Cruz, Ozuna

**Opposed:** Brereton, Stevens, Ybanez, Manna, Benavides, Oroian

**MOTION FAILS**

**Item #11**

**BOA-24-10300053:** A request by Janie Cortez for a fence material variance to allow a corrugated metal fence along side and rear yard, located at 907 Greer Street. Staff recommends Denial. (Council District 3) (Colton Unden, Planner, 210-207-0120, Colton.Unden2@sanantonio.gov, Development Services Department)

Staff stated 22 notices were mailed to property owners, 3 returned in favor, 1 returned in opposition, no Highland Park Neighborhood Association is in favor.

**Public Comment**

Eddie Rohrer spoke in support.

**Voicemails**

Jaine Cortez, applicant, voiced neighborhood support.

Erin Gallegos Reid, Highland Parks Neighborhood Association, spoke in support.

Rachel Rohrer spoke in support.

**Motion**

A motion was made by Commissioner Manna. Regarding Case No. BOA-24-10300053, I move that the Board of Adjustment grant a request for a fence material variance to allow a corrugated metal fence along side and rear yard, situated at 907 Greer Street, applicant being Janie Cortez, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

**The request is not contrary to the public interest as the fence has been adequately framed and capped with otherwise approvable materials.**

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

**Staff find special conditions on the subject property that would permit an exception to the approved fence materials. A literal enforcement of the ordinance would result in unnecessary hardship such as the loss of security for the property owner..**

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 fence does appear to observe the spirit of the ordinance as it has been adequately framed and capped.**

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 granting of the variances will not substantially injure the appropriate use of adjacent conforming properties or alter the essential character of the district in which the property is located.**

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 need for security and privacy.**

The motion was seconded by Commissioner Bragman.

Chair Oroian offers a friendly amendment to specify motion to reflect the westside rear yard and portion of the northside rear yard back fence per site plan.

Commissioner Manna and Commissioner Bragman accept the friendly amendment.

**Commissioner Dean joined at 2:55 pm.**

**Favor:** Manna, Bragman, Brereton, Stevens, Ybanez, Bonillas, Cruz, Benavides, Ozuna, Oroian

**Opposed:** None

**Abstain:** Dean

**MOTION PASSES**

**Commission went into recess at 2:57 pm and reconvened at 3:08 pm**

**Item #5**

**BOA-24-10300038** (Continued from BOA 4/15/2024): 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, Development Services Department)



Staff stated 24 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, no response from West End Hope in Action, Gardendale, or Prospect Hill Neighborhood Associations and 1 in favor outside 200 feet.

Pricilla Dupree, applicant, stated a desire for a 6' front entrance fence to keep the homeless out from further breaking windows in the front vestibule, sleeping on front porch, and damaging front entrance. This is only a 1' increase from the 5ft requirement. It is needed for security and safety of our employees.

### **Public Comment**

#### **Voicemail**

John Luera, spoke in favor.

### **Motion**

A motion was made by Commissioner Manna. Regarding Case No. BOA-24-10300038, I move that the Board of Adjustment grant a request for a 1' special exception from the maximum 5' fence height to allow 6' predominantly open fence in the front yard, situated at 2007 West Martin Street, applicant being LiftFund Inc., 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.

**If granted the special exception will be in harmony with the spirit and purpose of the chapter as it exceeds the maximum height limitations for predominantly open fences by 1-foot.**

B. The public welfare and convenience will be substantially served.

**In this case, these criteria are represented by fence heights to protect property owners while still promoting a sense of community. The proposed fence will add to the protection of the property and the community.**

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

**The proposed predominantly open fence would be along West Martin Street and would not injure neighboring properties as the fence does not obstruct the line of sight for oncoming vehicles.**

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.

**Upon inspection of the district and location, the fence at its proposed design will not alter the essential characteristics of the district as similar fences exist along West Martin Street.**

E. The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district

**If granted, the special exception will not alter the general purpose of the district, or the regulations herein established for the specific district. The proposed fence exceeds the height regulations by 1-foot and will enhance the security of the property.**

The motion was seconded by Commissioner Cruz.

**Favor:** Manna, Cruz, Brereton, Stevens, Ybanez, Dean, Bonillas, Benavides, Bragman, Ozuna, Oroian.

**Opposed:** None.

## **MOTION PASSES**

### **Item #6**

**BOA-24-10300045:** A request by Nerida Chapa for 1) a 3' special exception from the maximum 3' fence height to allow a 6' privacy fence east side front yard, and 2) a 3'-2" variance from the minimum 5' side setback for an accessory structure to be 1'-10" from side set back, located at 2911 Deer Ledge Drive. Staff recommends Denial. (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, 3 returned in opposition, no response from Carrington Homeowner Association.

Mrs. Neria Chapa, applicant, stated she was seeking a special exception for privacy. Specifically, with her next-door neighbors.

### **Public Comment**

Judy Cruz seeded time to Moises Cruz.

Moises Cruz spoke in opposition.

### **Voicemail**

Deedra Savage spoke in opposition.

### **Rebuttal**

Mrs. Neria Chapa states the entire situation has caused issues with her job, she does not want to see the neighbors, and this has created defamation of her character.

**Fence Height Special Exception is Denied due to lack of motion.**

### **Special Exemption**

A motion was made by Commissioner Ozuna. Regarding Case No. BOA-24-10300045, I move that the Board of Adjustment grant a request for a 3'-2" variance from the minimum 5' side setback for an accessory structure to be 1'-10" from side set back situated at 2911 Deer Ledge Drive, applicant being Nerida Chapa, 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 ample spacing between property line and structures. Staff finds variance is suitable, as it does not impose on the public interest of the neighbor.**

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 it will result in the applicant having to move a structure that existed prior to ownership to meet the setback.**

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

**The variance will observe the spirit of the ordinance because it would provide adequate distance from the side property line and is 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.*

**Variance distance provides adequate spacing, which is not likely to injure adjacent conforming properties and alter the essential character of the district, as other similarly placed accessory structures were seen in the immediate 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 is due to unique circumstances existing on the property, such as limited spacing in the rear yard.**

**The circumstances appear to be the results of general conditions in the district in which the property is located.**

The motion was seconded by Commissioner Manna.

Commissioner Ozuna offers a friendly amendment to solely apply to the existing location of the structure. Commissioner Manna accepts the friendly amendment.

Chair Oroain stated BCAD has record of shed being situated in 1984.

**Favor:** Ozuna, Manna, Brereton, Stevens, Ybanez, Dean, Cruz, Bonillas, Bragman, Oroian.

**Opposed:** Benavides.

## **MOTION PASSES**

### **Item #7**

**BOA-24-10300046:** A request by Maasias Montejano for a 5' variance from the minimum 20' rear setback to allow an addition to be 15' from rear setback, located at 411 Sandmeyer Street. Staff recommends Approval. (Council District 2) (Colton Unden, Planner, 210-207-0120, Colton.Unden2@sanantonio.gov, Development Services Department)

Staff stated 39 notices were mailed to property owners, 1 returned in favor, 0 returned in opposition, no response from Government Hills Alliance Neighborhood Association.

Maasias Montejano, applicant, stated he built an additional bathroom with it being 7' in width and 10' in length. Mr. Montejano presented 5 letters of support.

### **No Public Comment**

### **Motion**

A motion was made by Commissioner Bragman. Regarding Case No. BOA-24-10300046, I move that the Board of Adjustment grant a request for a 5' variance from the minimum 20' rear setback to allow an addition to be 15' from rear setback, situated at 411 Sandmeyer Street, applicant being Maasias Montejano, 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 suitable spacing between structures. Staff finds that this an allowable amount of spacing, as the structure will provide a suitable distance from neighboring properties. Additionally, the addition is abutting the portion of the backyard with no structure located on it.**

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 altering the built structure to adhere by the rear setback requirement. This would result in an unnecessary hardship, as this would not allow for a sizeable single-family home with adequate bathrooms.**

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

**In this case, the proposed rear setback will adhere to the spirit of the ordinance and substantial justice will be done by allowing for suitable distances between structures and neighboring properties. Additionally, the structure will abide by the front and side setback 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.*

**A 15' rear setback for the structure does not appear to alter the essential character of the district nor will it 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.*

**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. The circumstances do not appear to be merely financial.**

The motion was seconded by Commissioner Cruz.

**Favor:** Bragman, Cruz, Brereton, Stevens, Ybanez, Dean, Bonillas, Manna, Ozuna, Oroian.

**Opposed:** Benevides

## **MOTION PASSES**

### **Item #8**

**BOA-24-10300048:** A request by Ramon Torres for a 3' variance from the minimum 5' rear setback to allow a 2' rear setback for an accessory structure, located at 328 Madison Street. Staff

recommends Approval. (Council District 1) (Colton Uden, Planner, 210-207-0120, Colton.Uden2@sanantonio.gov, Development Services Department)

Staff stated 84 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, no response from King William Neighborhood Association.

Ramon Torres, applicant's representative, stated as the building was in the processing was getting rehabbed and unfortunately it fell apart. Now it is being build on the original footprint.

### **No Public Comment**

### **Motion**

A motion was made by Commissioner Stevens Regarding Case No. BOA-24-10300048, I move that the Board of Adjustment grant a request for a 3' variance from the minimum 5' rear setback to allow a 2' rear setback for an accessory structure, situated at 328 Madison Street, applicant being Ramon Torres, 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 suitable spacing between structures. Staff finds that this an allowable amount of spacing, as the structure will provide a suitable distance from neighboring properties.**

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 altering the built structure to adhere by the rear setback requirement. This would result in an unnecessary hardship, as this would not allow adequate roofing for the structure.**

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

**In this case, the proposed rear setback will adhere to the spirit of the ordinance and substantial justice will be done by allowing for suitable distances between structures and neighboring properties. Additionally, the structure will abide by all other setback 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.*

**A 2' rear setback for the structure does not appear to alter the essential character of the district nor will it 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.*

**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. The circumstances do not appear to be merely financial.**

The motion was seconded by Commissioner Ozuna.

**Favor:** Stevens, Ozuna, Brereton, Ybanez, Dean, Cruz, Bonillas, Benavides, Bragman, Oroian.

**Opposed:** Manna.

## **MOTION PASSES**

### **Item #9**

**BOA-24-10300049:** A request by Veronica Villegas for 1) a fence material variance to allow corrugated metal fence on property, and 2) a 5' variance from the minimum 15' clear vision to allow a 10' driveway clear vision, located at 307 Overlook Road. Staff recommends Approval for Driveway Clear Vision. Staff recommends Denial for the Corrugated Metal Fence. (Council District 2) (Melanie Clark, Planner, 210-207-5550, melanie.clark@sanantonio.gov, Development Services Department)

Staff stated 19 notices were mailed to property owners, 1 returned in favor, 0 returned in opposition, no registered Neighborhood Association.

Veronica Villegas, the applicant, stated having a metal fence is very important to her. He husband stores work material on the property, and on 3 separate occasions, theft has occurred. The applicant confirms that she does not have immediate neighbors.

Rachael Parrish, Development Services Engineer, stated clear vision does not differentiate between predominantly open and solid fencing.

### **No Public Comment**

### **Motion**

A motion was made by Commissioner Manna. Regarding Case No. BOA-24-10300049, I move that the Board of Adjustment grant a request for 1) a variance from the fence materials to allow for

a corrugated metal fence 2) an 5' variance from the minimum 15' clear variance to allow a 10' driveway clear vision using a predominantly open fence, situated at 307 Overlook Road, applicant being Veronica Villegas, 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 the fence constructed of corrugated metal will not be contrary to the public interest, and the reduced clear vision variance leaves adequate space for oncoming traffic.**

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

**A literal enforcement of the ordinance would cause an unnecessary hardship, as the corrugated metal fence is located on the rear property line and predominately open front yard fence is on the established location in the area.**

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

**The spirit of the ordinance will be observed with the approval of the corrugated metal fence as it would provide an element of security and safety to the property owner, and the driveway clear vision variance still allows an adequate distant 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.*

**If granted, the clear vision reduction would still allow adequate room for oncoming traffic, and the use of corrugated metal fencing provides a separation between adjacent 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 finds the plight of the owner of the property for which the variances are sought are due to unique circumstances existing on the property, as the adjacent property use is an Urban Farm and established driveway setback in the area are on the 10' clear vision setback.**

The motion was seconded by Chair Oroian.

Chair Oroian makes a friendly amendment to limit corrugated metal fence on the west side property line.

Commissioner Manna accepts friendly amendment.

**Favor:** Manna, Oroian, Brereton, Stevens, Ybanez, Dean, Cruz, Bonillas, Benavides, Bragman, Ozuna.

**Opposed:** None.

## **MOTION PASSES**

### **Item #10**

**BOA-24-10300051:** A Request by Ronald S. Gross for a 6'-7" variance from the minimum 10' front setback to allow a carport to be 3'-5" from the front property line, located at 13835 Susancrest Drive. Staff recommends Denial. (Council District 9) (Melanie Clark, Planner, (210-207-5550, melanie.clark@sanantonio.gov, Development Services Department)

Staff stated 25 notices were mailed to property owners, 2 returned in favor, 0 returned in opposition, no registered Neighborhood Association.

Ronald S. Gross, applicant, stated he needs his carport to protect his vehicle. Further adding, that his immediate neighbors have carports.

Applicant formally amends to add gutters.

## **No Public Comment**

### **Motion**

A motion was made by Commissioner Ozuna. Regarding Case No. BOA-24-10300051, I move that the Board of Adjustment grant a request for a 6'-7" variance from the minimum 10' front setback to allow a carport to be 3'-5" from the front property line, situated at 13835 Susancrest Drive, applicant being Ronald S. Gross, 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 request would not be contrary to the public interest as it leave sufficient room on the side and front of the property for any required maintenance and enough separation to prevent any intrusion of elements.**

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

**Special conditions exist on the property as the limited size of the lot do not provide enough space for the intended use of protecting the property owners' vehicles.**

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

**The spirit of the ordinance is to provide separation between structures and property lines. The addition to the carport would provide sufficient distance between the proposed structure and property lines to ensure safety and clear vision requirements are met.**

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 front setback would not alter the essential character of the district or injure the appropriate use of adjacent conforming properties 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.*

**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 size of the lot does not provide adequate space for covered parking.**

The motion was seconded by Commissioner Cruz.

**Favor:** Ozuna, Cruz, Brereton, Stevens, Ybanez, Dean, Bonillas, Manna, Benavides, Bragman, 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 4:36 PM.

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

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

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

## City of San Antonio



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

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**Monday, May 6, 2024**

**1:00 PM**

**1901 S. Alamo**

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**1:02 PM – Call to Order**

**Worldwide Interpreter presented.**

**Chair Oroian administers Oath of Office to appointed commissioner, Samuel Stevens.**

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

**Absent:** Bragman

#### **Withdrawn**

**Item #1** BOA-24-10300047- located at 5010 Driskill Street.

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

##### **Item #8**

**BOA-24-10300062:** A request by the Law Office of EAR PLLC for 1) a 15' variance from the minimum 30' setback to allow a structure with a 15' rear setback, 2) a 15' variance from the minimum 15' buffer to allow an elimination of the buffer requirements on the front yard, and 3) a 5' variance from the minimum 20' setback to allow a 15' side setback, located at 12102 Huebner Road. Staff recommends Denial. (Council District 8) (Colton Unden, Planner, 210-207-0120, Colton.Unden2@sanantonio.gov, Development Services Department)

Commissioner Brereton motioned to approve Item #8 to June 3, 2024.

The motion was seconded by Commissioner Benavides.

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

**MOTION PASSES****Item #1**

**BOA-24-10300060:** A request by Christina Ramirez for an appeal from an Administrator's decision for a Nonconforming Denial, located at 9655 New Laredo Highway. Staff recommends Denial. (Council District 4) (Colton Unden, Planner, 210-207 0120, Colton.Unden2@sanantonio.gov, Development Services Department)

Staff stated 9 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, no response Neighborhood Association.

Elizabeth Russell, applicant's representative, is seeking to verify that nonconforming use right for a used auto parts recycler was denied. An additional 7 letters of support were presented to the Board. In 2021, the property was purchased by Ms. Ramirez. Prior to the purchase, she did seek guidance from code enforcement for two reasons, one to make sure what the violations were and next to make good. City staff stated once all violations were taken care of, then the applicant could move forward with a nonconforming use. The applicant moved forward with operation and received inspections throughout 2020, 2021, 2022, and 2023.

Christina Ramirez, applicant, stated that the business possesses a TDL license with the state, and is in compliance with TCQ, and SAWS.

Roxy Ramirez, Development Services Supervisor, confirmed that a citation was issued on January 12, 2024, for improper zoning and was dismissed in April of 2024.

Chair Oroian requested clarification on a business transaction needing to occur to qualify for a Nonconforming.

Amin Thomaz, Development Services Deputy Director, stated the property did not have a nonconforming use in 2017. A nonconforming use applies to a business in continuous use. The business was not in operation from 2017-2021. Under the UDC, this business would not consider it to be valid because it was shut down for over a year. It was also noted that the last NCU occurred in 2015.

**Rebuttal**

It was stated new vehicles have been continuously brought into the property and a non-conforming use is appropriate.

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

A motion was made by Commissioner Ozuna. Regarding Case No. BOA-24-10300060, I move that the Board of Adjustment grant the appeal for the property, situated at 9655 New Laredo Highway, applicant being Christina Ramirez, because the information provided by the applicant shows that City staff made an error in the Denial of a Nonconforming Use.

The motion was seconded by Commissioner Manna.

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

**Opposed:** None.

## **MOTION PASSES**

### **Item #2**

**BOA-24-10300057:** A request by Michael Gonzales 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 1230 Rivas Street. Staff recommends Denial. (Council District 5) (Juan Alvarez, Planner (210) 207-7232, Juan.Alvarez2@SanAntonio.gov, Development Services Department).

Staff stated 52 notices were mailed to property owners, 0 returned in favor, 2 returned in opposition, no response from Prospect Hill & West End Hope in Action Neighborhood Association.

Michael Gonzalez, the applicant, stated he was seeking a special exception to allow a Type 2 STR.

### **Public Comment**

#### **Speaker**

Russel Felan, Prospect Hill, spoke in support.

Lauren Chavez, Development Services Principal Planner, stated LAR occurred in 2023. At that time 12 STRs were allowed per block face.

### **Rebuttal**

The applicant stated he would not be able to do a long-term rental as it would not be financially feasible.

### **Motion**

A motion was made by Commissioner Benavides. Regarding Case No. BOA-24-10300057, I move that the Board of Adjustment grant a special exception to allow for (1) Type 2 short term rental unit, situated at 1230 Rivas Street applicant being Michael Gonzales, 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:** Brereton, Cruz, Manna, Benavides, Oroian, Ozuna, Vasquez, Ybanez.

**Opposed:** Stevens, Dean, Gomez.

## **MOTION FAILS**

### **Item #3**

BOA-23-10300316: A request by Brandon Melland for a request for a variance from the fence materials to allow for a corrugated metal fence on the property, located at 10601 and 10515 Nacogdoches Road. Staff recommends Approval for the Fence Height Special Exception. Staff recommends Denial for Fence Material Variance. (Council District 10) (Melanie Clark, Planner, 210-207-5550, melanie.clark@sanantonio.gov, Development Services Department)

Staff stated 17 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, no registered Neighborhood Association.

MiaMarie Pugh, applicant's representative, requested for a variance from the fence materials to allow for a corrugated metal fence in the front yard.

Joe Melland, applicant, amended application to cover the top of the fence.

Brandon Melland, designer, stated that other materials were considered as a good fence as kept in mind.

### **No Public Comment**

### **Motion**

A motion was made by Commissioner Ozuna. Regarding Case No. BOA-23-10300316, I move that the Board of Adjustment grant a request for a variance from the fence materials to allow for a corrugated metal fence on the property, situated at 10601 and 10515 Nacogdoches Road, applicant being Brandon Melland, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that: the materials; corrugated metal fence be capped as the applicant provided as amended in his testimony and the material fence be limited to what is provided in the site plan and exhibit for us today.

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. There is no safety concern surrounding the area as there is no significant residential development.**

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 fencing materials would add to the security of the property.**

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

**In this case, the spirit of the ordinance be observed, as the proposed fence design will not create a distraction and will provide the necessary screening and security for the intended commercial use on the 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 granting of the variance would not substantially injure the appropriate use of adjacent properties as the request is not hindering the appropriate use of the adjacent properties. The corrugated metal will enhance the essential character of the property and surrounding 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 is due to unique circumstances existing on the property, such as the surrounding area uses and the nature of the facility. The circumstances do not appear to be merely financial.**

The motion was seconded by Commissioner Cruz.

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

**Opposed:** Manna, Dean.

## **MOTION PASSES**

**Board went to recess at 2:33 pm and reconvened at 2:41pm.**

### **Item #4**

BOA-24-10300002: (Continued from 4/15/2024): A request by SS Engineering 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 in the 10000 Block of Culebra Road. Staff recommends Denial. (Council District 6) (Melanie Clark, Planner, 210-207-5550, melanie.clark@sanantonio.gov, Development Services Department).

Staff stated 18 notices were mailed to property owners, 0 returned in favor, 2 returned in opposition, Hidden Meadow Neighborhood Association is opposed,

Zain Sawal, applicant, stated the intent is to build a food truck park with a playground.

## **No Public Comment**

### **Motion**

A motion was made by Commissioner Ozuna to continue BOA-24-10300002 to June 3, 2024. The motion was seconded by Commissioner Cruz.

**Favor:** Brereton, Benavides, Vasquez, Brereton, Cruz, Benavides, Oroian, Ozuna, Manna, Vasquez  
**Opposed:** Dean.

## **MOTION PASSES**

### **Item #5**

BOA-24-10300034: A request by Trushant Patel for 1) a fence material variance to allow corrugated metal on the side and front of property, and 2) a 3'-3" fence height special exception from the maximum 3' fence height to allow an 6'-6" privacy fence in the front and side of the property, located at 6364 Interstate 35 North. Staff recommends Approval for the Fence Height Special Exception. Staff recommends Denial for Fence Material Variance. (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, 2 returned in favor, 0 returned in opposition, no registered Neighborhood Association.

Trushant Patel, applicant, stated she was seeking a special exception for privacy. Mr. Patel amends application to include a capped fence.

Video is shown with an active shooter using an AK-47 to support his request.

### **No Public Comment**

### **Motion**

A motion was made by Chair Oroian. Regarding Case No. BOA-24-10300034, I move that the Board of Adjustment grant a request for a 3'-3" fence height special exemption from the maximum 3' fence height to allow an 6'-6" privacy fence in the front and side of the property, situated at 6364 Interstate 35 North, applicant being Trushant Patel, 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 fence height does not exceed 8' in height, provides security for hotel patrons from neighboring properties and is limited to the west side property line and small portion of front yard. If granted, staff finds the request would be in harmony with the spirit and purpose of the ordinance.**

*B. The public welfare and convenience will be substantially served.*

**Due to the property's proximity to an expressway and continuous criminal activity occurring from neighboring properties, an increased fence height will serve the public welfare by providing the needed security for guests and substantial justice will be served.**

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

**The special exception will not injure the neighboring properties as the fence height will not impede traffic or clear vision requirements as it is located a safe distance from front setback and creates enhanced security and privacy for hotel guests.**

*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 fence height in the front property line will not alter the location for which the special exception is sought, as the fence height would provide the necessary privacy from public view and access.**

*E. The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district*

**The requested special exception will not weaken the general purpose of the district as the placement of the fence will not create any clear vision issues on the lot.**

The motion was seconded by Commissioner Manna.

**Chair Oroian amends motion to reflect applicants' application on fence height.  
Commissioner Manna accepts.**

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

**Opposed:** Dean.

## **MOTION PASSES**

### **Special Exemption**

A motion was made by Commissioner Stevens Regarding Case No. BOA-24-10300034, I move that the Board of Adjustment grant a request for a fence material variance to allow corrugated metal on the side and front of property, situated at 6364 Interstate 35 North, applicant being Trushant Patel 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 allowing the 6'-6" corrugated metal fencing to remain on the side and front yard of the property as the fence does not impede the public right of way or clear vision requirements and provides privacy screening for hotel patrons.**

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

**Staff find special conditions on the subject property that would permit an exception to the approved fence materials. A literal enforcement of the ordinance would result in unnecessary hardship as such as demolishing the corrugated metal fence.**

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

**The spirit of the ordinance will be observed with the approval of the corrugated metal privacy fence on the front and side of the property will provide the durability, security, and safety needed to protect property owner and hotel guests.**

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 granting of the variances will not substantially injure the appropriate use of adjacent conforming properties or alter the essential character of the district in which the property is located as the use of corrugated metal fencing provides privacy and separation between the subject property and the adjacent lot.**

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 proximity to a high traffic expressway and need to provide the necessary safety and privacy screening for hotel patrons.**

**Commissioner Stevens amends to provide a cap on the fence. Commissioner Benavides accepts the friendly amendment.**

The motion was seconded by Commissioner Benavides.

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

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

**MOTION FAILS**

**Item #6**

**BOA-24-10300055:** A request by Jamail & Smith Construction for a 1' special exception from the maximum 5' height to allow a 6' predominantly open fence in the front yard, located at 701 South Zarzamora Street. Staff recommends Approval. (Council District 5) (Colton Unden, Planner, 210-207-0120, Colton.Unden2@sanantonio.gov, Development Services Department)

Staff stated 121 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, Prospect Hill Neighborhood association is in favor, Historic Westside Residents Neighborhood Association is in favor.

**Public Comment****Voicemail**

Lecitica Sanchez, spoke in support.

**Item # 6 is tabled due to applicant not being present.**

**Item #10**

**BOA-24-10300066:** A request by Victor Perez for 1) a 9'-11" variance from the minimum 10' setback to allow a carport with a 1" front setback, and 2) a 5' variance from the minimum 15' clear vision to allow a 10' driveway clear vision, located at 2319 Fairhill Street. Staff recommends Approval for Clear Vision Variance. Staff recommends Denial for Front Setback Variance. (Council District 7) (Melanie Clark, Planner, 210-207-5550, melanie.clark@sanantonio.gov, Development Services Department).

Staff stated 32 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, no response from Culebra Park Neighborhood Association is opposed.

Victor Perez, applicant, stated he needs the variance due to his existing medical condition. the direct heat and reflection of the sun cause the applicant to bleed. Having the variances approved would remedy his episodes.

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

A motion was made by Commissioner Ozuna. Regarding Case No. BOA-24-10300066, I move that the Board of Adjustment grant a request for 1) a 5' variance from the minimum 10' setback to allow a carport with a 5' front setback and 2) a 5' variance from the minimum 15' clear vision to allow a 10' driveway clear vision, situated at 2319 Fairhill Street, applicant being Victor Perez, 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.*

**To observe the safety of vehicular traffic for those traveling along Fairhill Street the front setback and driveway clear vision variance to the Clear Vision Standards appears not 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 not result in unnecessary hardship, as the structure would have to be moved to meet the required setbacks. Also, the entire fence would have to be reconfigured to abide by the driveway clear vision.**

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

**The variance to the front setback and clear vision requirements appears to observe the spirit of the ordinance, as it will leave room for safe visibility for oncoming vehicles and will not injure 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.*

**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 reduced front setback and driveway clear vision will not alter the essential character of the district as the carport and fence location leave sufficient room for public right-of-way and safely back onto residential street.**

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 existing carport and front yard does not provide the space needed for security and multi-vehicle use.**

The motion was seconded by Commissioner Manna.

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

**Opposed:** None.

**MOTION PASSES**

**Chair Oroian stated Item #6 will be brought back from the table for consideration.**

**Item #6**

**No Public Comment**

**Motion**

A motion was made by Commissioner Ozuna. Regarding Case No. BOA-24-10300055, I move that the Board of Adjustment grant a request for a 1' special exception from the maximum 5' height to allow a 6' predominantly open fence in the front yard, situated at 701 South Zarzamora Street, applicant being Jamail & Smith Construction, 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.*

**If granted the special exception will be in harmony with the spirit and purpose of the chapter as it exceeds the maximum height limitations for predominantly open fences by 1-foot.**

*B. The public welfare and convenience will be substantially served.*

**In this case, these criteria are represented by fence heights to protect property owners while still promoting a sense of community. The proposed fence will add to the protection of the property and the community.**

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

**The proposed predominantly open fence would be along South Zarzamora Street and would not injure neighboring properties as the fence does not obstruct the line of sight for oncoming vehicles.**

*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.*

**Upon inspection of the district and location, the fence at its proposed design will not alter the essential characteristics 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*

**If granted, the special exception will not alter the general purpose of the district, or the regulations herein established for the specific district. The proposed fence exceeds the height regulations by 1-foot and will enhance the security of the property.**

The motion was seconded by Commissioner Cruz.

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

**Opposed:** None.

## **MOTION PASSES**

### **Item #7**

**BOA-24-10300058:** A request by Chrysalis Ministries for a 1' special exception from the maximum 5' height to allow a 6' predominantly open fence in the front yard, located at 509 San Pedro Avenue. Staff recommends Approval. (Council District 1) (Colton Unden, Planner, 210-207-0120, Colton.Unden2@sanantonio.gov, Development Services Department).

Staff stated 15 notices were mailed to property owners, 1 returned in favor, 0 returned in opposition, no response from Tobin Hill Neighborhood Association.

Chrysalis Ministries, applicant, is not present.

### **No Public Comment**

### **Motion**

A motion was made by Commissioner Manna. Regarding Case No. BOA-24-10300058, I move that the Board of Adjustment grant a request for a 1' special exception from the maximum 5' height to allow a 6' predominantly open fence in the front yard, situated at 509 San Pedro Avenue, applicant being Chrysalis Ministries, 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.*

**If granted the special exception will be in harmony with the spirit and purpose of the chapter as it exceeds the maximum height limitations for predominantly open fences by 1-foot.**

*B. The public welfare and convenience will be substantially served.*

**In this case, these criteria are represented by fence heights to protect property owners while still promoting a sense of community. The proposed fence will add to the protection of the property and the community.**



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

**The proposed predominantly open fence would be along San Pedro Avenue and would not injure neighboring properties as the fence does not obstruct the line of sight for oncoming vehicles.**

*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.*

**Upon inspection of the district and location, the fence at its proposed design will not alter the essential characteristics 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*

**If granted, the special exception will not alter the general purpose of the district, or the regulations herein established for the specific district. The proposed fence exceeds the height regulations by 1-foot and will enhance the security of the property.**

The motion was seconded by Commissioner Benavidez.

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

**Opposed:** None.

## **MOTION PASSES**

### **Item #9**

**BOA-24-10300064:** A request by Stephanie Garcia for 1) a 15' variance from the minimum 15' Buffer to allow the elimination of the Buffer in the front yard, 2) a 29'-11" variance from the minimum 30' front setback to allow a structure with a 1" front setback, 3) a 29'-11" variance from the minimum 30' side setback to allow a structure with a 1" side setback, 4) a 20' variance from the minimum 30' rear setback to allow a structure with a 10' rear setback, and 5) a 15' variance from the minimum 25' rear buffer to allow a 10' buffer in the rear yard, located at 2102 South Presa Street. Staff recommends Denial. (Council District 5) (Melanie Clark, Planner, 210-207-5550, melanie.clark@sanantonio.gov, Development Services Department)

Staff stated 25 notices were mailed to property owners, 2 returned in favor, 0 returned in opposition, no response from the Roosevelt Park Neighborhood Association.

Stephanie Garcia, applicant, stated her location of business has no violations.

Joseph Harney, City Attorney, operation of business and location of HQ clarification.

### **Public Comment**

**Voicemail**

Mr. Cruz, spoke in opposition.

**Speaker**

John Bustamante, Roosevelt Neighborhood Association, spoke in opposition on his accord and in representing the Neighborhood Association, he requested a continuance on their behalf.

**Rebuttal**

Roland Castro, representative, spoke on the property stating there will be industrial units.

**Motion**

A motion was made by Commissioner Ybanez to continue Item #9 to June 3, 2024. The motion was seconded by Commissioner Dean.

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

**MOTION PASSES**

**Commissioner Dean left the meeting.**

**Item #11**

**BOA-24-10300067**: A request by Santiago Anguiano for a 6" variance from the minimum 50' width to allow a width of 49'-6" on two lots, located at 8022 and 8026 Airlift Avenue. Staff recommends Approval. (Council District 4) (Colton Unden, Planner, 210-207-0120, Colton.Unden2@sanantonio.gov, Development Services Department).

Staff stated 24 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, no response from the Lackland Neighborhood Association.

Ms. Martinez, applicant's representative, was seeking a 6' in variance.

**No Public Comment**

**Motion**

A motion was made by Commissioner Manna. Regarding Case No. BOA-24-10300067, I move that the Board of Adjustment grant a request for a 6" variance from the minimum 50' width to allow a width of 49'-6" on two lots, situated at 8022 and 8026 Airlift Avenue, applicant being Santiago Anguiano, 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 this request is not contrary to public interest, as the applicant is abiding by the setback requirements, which will not infringe onto the neighboring properties.**

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

**In this case, the special condition found on the subject property is the narrow lot width. Without this variance, an unnecessary hardship will prevent the applicant from developing this lot.**

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

**The applicant is requesting this variance prior to construction. Additionally, all other building requirements, such as setback minimums, building height, and lot density, are all being abided by. The spirit of the ordinance will be observed by granting this variance.**

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 lots will maintain 49 feet 6 inches in width, which will not injure the use of adjacent conforming properties. Upon site visits, staff has found that the 6-inch width variance will not alter the essential character of the district and setback regulations will insure adjacent properties remain uninjured.**

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 narrow width of the lot. The circumstances do not appear to be merely financial.**

**Commissioner Dean exited the Board Room at 4:28 pm.**

The motion was seconded by Commissioner Cruz.

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

**Opposed:** None

**MOTION PASSES**

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

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

**Staff Announcements**

Kristie Flores, Development Services Planning Manager, stated she will be taking a leave of absence due to an invasive medical procedure, and this will be her last meeting until she is able to fully return.

**Adjournment**

There being no further business, the meeting was adjourned at 4:37 PM.

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

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

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