

City of San Antonio

**DRAFT****Board of Adjustment Minutes**Development and Business Services Center
1901 South Alamo

November 7, 2022

1:00PM

1901 S. Alamo

1:03 P.M. - Call to Order**- Roll Call****Present:** Spielman, Albert, Menchaca, Cruz, Manna, Kaplan, Ozuna, Bragman Vasquez, Zuniga, and Oroian**- Absent:** None

2 Translators from SeproTec were present to assist with translating.

THE FOLLOWING ITEMS MAY BE CONSIDERED AT ANY TIME DURING THE REGULAR BOARD OF ADJUSTMENT MEETING:*Public Hearing and Consideration of the following Variances, Special Exceptions, Appeals, as identified below***The Board of Adjustment went into Executive Session at 1:04P.M.****The Board of Adjustment reconvened at 1:39 P.M.****Item #1 (POSTPONED) BOA-22-10300226****Item #2 (Continued from 10/17/22) BOA-22-10300161:** A request by Steven Nanez for a Special Exception to allow one (1) additional Type 2 Short Term Rental permit on the block face, located at 603 South Mesquite Street. Staff recommends Denial. (Council District 2) (Joshua Orton, Senior Planner, (210)-207-7945, Joshua.Orton@sanantonio.gov, Development Services Department)

Staff mentioned 37 notices had been mailed out, 0 returned in favor, 1 returned in opposition, and there is no response from the Alamodome Garden Neighborhood Association.

Steven Nanez, applicant, - stated the property used to have a Type 2 Short Term Rental

Permit and when he bought the property it lost the permit, so he is reapplying, but another property on the block face got their permit first.

Public Comment:

Voicemails:

Leticia Sanchez, 1710 De La Cruz, is in opposition

Ray Morales, is in opposition

Margaret Leed, 308 King William, is in opposition

Mary Johnson, 125 West Ridgewood Ct, is in opposition

Tony Garcia, 243 E Huisache, is in opposition

Steven Sting, 105 Reno Street, is in opposition

Chair Oroian asked for a motion for item **BOA-22-10300161** as presented.

Ozuna made a **motion** for item **BOA-22-10300161** for approval.

Regarding Case No. BOA-22-10300161, I move that the Board of Adjustment grant a special exception to allow for (1) Type 2 short term rental unit, situated at 603 South Mesquite, applicant being Steven Nanez, 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 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.

2. *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.

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

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

4. *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.

5. *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.

6. *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 residential uses of varying intensity. 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.

Second: Manna

In Favor: Bragman, Zuniga, Ozuna, and Oroian

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

Motion fails.

Item#10

BOA-22-10300182: A request by Cotton Barrett Estes for 10' variance from the minimum 20' rear setback requirement to allow a structure to be 10' from the rear property line, located at 115 Gorman Street. Staff recommends Approval. (Council District 2) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff mentioned 25 notices had been mailed out, 0 returned in favor, 0 returned in opposition, and there is no response from the Dignowity Hill Homeowners Association.

Cotton Estes, applicant, - stated there is Historical final approval. Also stated it's a small lot with a small yard and the neighbors to the north are ok with the project.

No Public Comment

Chair Oroian asked for a **motion** for **BOA-22-10300182** as presented

Bragman made a motion for **BOA-22-10300182** for approval

Regarding Case No. BOA-22-10300182, I move that the Board of Adjustment grant a request for a 10' variance from the minimum 20' rear setback requirement to allow a structure to be 10' from the rear property line. , situated at 115 Gorman Street, applicant being Cotton Barrett Estes, 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 variance to the rear setback to allow a structure to be 10' from the rear property line. The structure will meet the front and side setback requirement and does not appear to be contrary to the public interest.

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

A literal enforcement of the ordinance would result in the applicant having to maintain 20' from the rear property line. Staff finds an unnecessary hardship since the lot is too small to allow the development of a structure with this requirement.

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

The structure has not been constructed and the proposed setback is 10' from the rear property line. The spirit of the ordinance will be observed as there will still be reasonable space between the structure and 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 does not find evidence that the requested variance would alter the essential character of the district. The neighborhood in which the subject property is located has several similar sized 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.*

Because of the width of the lot and configuration. Maintaining a 10' rear setback is appropriate for the area. The request is not merely financial.

Second: Kaplan

In Favor: Spielman, Albert, Menchaca, Vasquez, Cruz, Manna, Bragman, Kaplan, Zuniga,

Ozuna, and Oroian

Opposed: None

Motion passes.

Item #3

BOA-22-10300197: A request by Nam Lee for a Special Exception to allow one (1) additional Type 2 Short Term Rental permit on the block face, located at 736 East Myrtle. Staff recommends Denial. (Council District 1) (Joshua Orton, Senior Planner, (210) 207-7945, Joshua.Orton@sanantonio.gov, Development Services Department)

Staff stated the applicant requested a continuance to December 5th.

Chair Oroian asked for a **motion** for **BOA-22-10300182** for a continuance.

Ozuna made a motion for **BOA-22-10300182** for a continuance to December 5th.

Second: Kaplan

In Favor: Spielman, Albert, Menchaca, Vasquez, Cruz, Manna, Bragman, Kaplan, Zuniga, Ozuna, and Oroian

Opposed: None

Motion passes for continuance to December 5th.

Item #4

BOA-22-10300198: A request by John Negem for a Special Exception to allow one (1) additional Type 2 Short Term Rental permit on the block face, located at 123 Allensworth Street. Staff recommends Denial. (Council District 2) (Joshua Orton, Senior Planner, (210) 207-7945, Joshua.Orton@sanantonio.gov, Development Services Department)

Staff mentioned 81 notices had been mailed out, 0 returned in favor, 0 returned in opposition, and there is no response from the Mahncke Park Neighborhood Association.

John Negem, applicant, - stated the property is separated from the other neighbors on the block face. There is a lot behind the property used for parking by students at Incarnate Word and a restaurant parking. He also stated he has looked-for long-term rentals but has had a difficult time doing so.

Public Comment:

Voicemail:

Valerie Jennings, 467 Elenor Avenue, - in opposition

Leticia Sanchez, 1710 De La Cruz, is in opposition

Ray Morales, is in opposition

Margaret Leed, 308 King William, is in opposition

Mary Johnson, 125 West Ridgewood Ct, is in opposition

Tony Garcia, 243 E Huisache, is in opposition

Steven Sting, 105 Reno Street, is in opposition

Chair Oroian asked for a **motion** for **BOA-22-10300198** as presented

Ozuna made a motion for **BOA-22-10300198** for approval

Regarding Case No. BOA-22-10300198, I move that the Board of Adjustment grant a special exception to allow for (1) Type 2 short term rental unit, situated at 123 Allensworth Street, applicant being John Negem, 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 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.

2. *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.

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

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

4. *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.

5. *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.

6. *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 residential uses of varying intensity. 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.

Second: Kaplan

In Favor: Menchaca, Cruz, Bragman, Ozuna, and Oroian

In Opposition: Spielman, Albert, Vasquez, Manna, Kaplan, and Zuniga

Motion fails.

Item #5

BOA-22-10300201: A request by Robert Saenz for a Special Exception to allow one (1) additional Type 2 Short Term Rental permit on the block face, located at 11506 Whisper Circle. Staff recommends Denial. (Council District 9) (Joshua Orton, Senior Planner, (210) 207-7945, Joshua.Orton@sanantonio.gov, Development Services Department)

Staff stated the applicant requested a continuance to December 5th.

Public Comment:

Voicemails:

Peter, is in opposition

Alicia, 11503 Whisper Rock Street, is in opposition

Adam, 11503 Whisper Rock Street, is in opposition

Chair Oroian asked for a **motion** for item **BOA-22-10300201** for a continuance.

Bragman made a motion for item **BOA-22-10300201** for a continuance to December 5th.

Second: Kaplan

In Favor: Spielman, Albert, Vasquez, Manna, Kaplan, Zuniga, Menchaca, Cruz, Bragman, Ozuna, and Oroian

Opposed: None

Chair Oroian moved to rescind the continuance and reopen the public hearing.

Second: Manna

In Favor: Spielman, Albert, Vasquez, Manna, Kaplan, Zuniga, Menchaca, Cruz, Bragman, Ozuna, and Oroian

Public Comment:

Janis Witt, is in opposition

Chair Oroian asked for a **motion** for item **BOA-22-10300201** as presented.

Bragman made a motion for item **BOA-22-10300201** for approval.

Regarding Case No. **BOA-22-10300201**, I move that the Board of Adjustment grant a special exception to allow for (1) Type 2 short term rental unit, situated at 11506 Whisper Circle, applicant being Robert Saenz, 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 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.

2. *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.

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

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

4. *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.

5. *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 have history of revocation, citations, or convictions for violations of Chapter 16.

6. *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 residential uses of varying intensity.

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.

Second: Kaplan

In Favor: None

Opposed: Spielman, Albert, Vasquez, Manna, Kaplan, Zuniga, Menchaca, Cruz, Bragman, Ozuna, and Oroian

Motions fails.

Item #6

BOA-22-10300209: A request by Carlos Munoz for a Special Exception to allow one (1) additional Type 2 Short Term Rental permit on the block face, located at 86 Tranquil Terrace. Staff recommends Denial. (Council District 6) (Joshua Orton, Senior Planner, (210) 207-7945, Joshua.Orton@sanantonio.gov, Development Services Department)

Staff stated 26 notices were sent out, 2 returned in favor, 2 returned in opposition and there is no registered neighborhood association.

Carlos Munoz, representative, - stated the homeowner is a nurse in Laredo and wants to keep her home and retire in San Antonio.

Public Comment:

Voicemail:

Valerie Jennings, 467 Elenor Avenue, - in opposition

Leticia Sanchez, 1710 De La Cruz, is in opposition

Ray Morales, is in opposition

Margaret Leed, 308 King William, is in opposition

Mary Johnson, 125 West Ridgewood Ct, is in opposition

Tony Garcia, 243 E Huisache, is in opposition

Steven Sting, 105 Reno Street, is in opposition

Chair Oroian asked for a motion for item **BOA-22-10300209** as presented.

Cruz made a motion for item **BOA-22-10300209** for approval.

Regarding Case No. BOA-22-10300209, I move that the Board of Adjustment grant a special exception to allow for (1) Type 2 short term rental unit, situated at 86 Tranquil Terrace, applicant being Carlos Munoz, 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 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.

2. *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.

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

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

4. *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.

5. *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.

6. *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 residential uses of varying intensity. 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.

Second: Manna

In Favor: Menchaca, Cruz, and Ozuna

Opposed: Spielman, Albert, Manna, Zuniga, Kaplan, Bragman, Vasquez, and Oroian

Motion fails.

The meeting went into recess at 3:11 and reconvened at 3:24

Chair Oroian turned the meeting over to Vice Chair Ozuna for recusal purposes for item **BOA 22-10300185**.

Chair Oroian left the meeting at 3:25 P.M.

Commissioner Ingalls joined the meeting via Webex

Item #11

BOA-22-10300185: A request by ADA Consulting Group, INC for a request for 2' variance from the minimum 5' side setback requirement to allow a structure to be 3' from the rear property line, located at 12103 Pebble Street. Staff recommends Approval. (Council District 8) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 32 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and there is no response from the Great Northwest Community Improvement Homeowners Association.

Lindsay Thorne, representative, - stated they need the variance for a couple reasons to build housing.

No Public Comment

Vice Chair Ozuna asked for a motion for item **BOA-22-10300185** as presented.

Bragman made a motion for **BOA-22-10300185** for approval.

Regarding Case No. **BOA-22-10300185**, I move that the Board of Adjustment grant a request for a 2' variance from the minimum 5' side setback requirement to allow a structure to be 3' from the side property line, situated at 12103 Pebble Street, applicant being ADA CONSULTING GROUP, 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:

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

The variance to the side setback to allow a structure to be 3' from the side property line. The structure will meet the front and rear setback requirement and does not appear to be contrary to the public interest.

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

Staff finds an unnecessary hardship since the lot is too small to allow the development of the structure with this requirement.

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

The structures have not been constructed and the proposed setback is 3' from the side property line. The development of the four units will be developed in the same project, which allows verification of a minimum 8-foot separation between dwelling structures on the property. The spirit of the ordinance will be observed as there will still be reasonable space between the structure and 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 does not find evidence that the requested variance would alter the essential character of the district. The future lots will be developed in the recently rezoned "R-4" standards.

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.*

Because of the width of the lot and configuration of the proposed dwellings, maintaining a 3' side setback is appropriate for the area. The request is not merely financial.

Second: Manna

In Favor: Spielman, Albert, Vasquez, Manna, Kaplan, Zuniga, Menchaca, Cruz, Bragman, Ozuna, and Ingalls

Opposed: None

Motion passes.

Chair Oroian rejoins the meeting at 3:35.

Item #7

BOA-22-10300146: A request by Taylor Dawson for a 107' variance from the maximum 90' front setback requirement to allow to allow a structure to be 197' from the front property line, and 2) a request for a 21' variance from the maximum 35' height limit to allow a structure to be 56' in height, generally located in the 8700 block of Escala Parkway. Staff recommends

Approval. (Council District 6) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 24 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and there was no response from the Tierra Linda Heights Neighborhood Association.

Taylor Dawson, representative, - stated the front set back is due to the floodplain and the height is needed because other competitors have similar heights.

No Public Comment

Chair Oroian asked for a motion for item **BOA-22-10300146**, as presented.

Manna made a motion for **BOA-22-10300146** for approval.

Regarding Case No. BOA-22-10300146, I move that the Board of Adjustment grant a request for a 107' variance from the maximum 90' front setback requirement to allow to allow a structure to be 197' from the front property line, and 2) a request for a 21' variance from the maximum 35' height limit to allow a structure to be 56' in height, generally located in the 8700 block of Escala Parkway, applicant being Taylor Dawson, 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 variances to allow the proposed multi-family development to have a front setback of 197' and a max building height of 56'. The structure would be situated a reasonable distance from Escala Parkway, which does not appear to be contrary to the public interest.

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

The proposed development would have to maintain the maximum setback permitted of 90' and max height of 35'. Staff finds an unnecessary hardship due to the substantial size of the lot.

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

A 197' setback will observe the spirit of the ordinance, the location and size of the proposed easement will use the majority of the front setback. The building maximum

height will be 56'. Maintaining this distance and height will provide additional security and safety due to the frontage being off a busy 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.*

Properties located along Escala Parkway all maintain an extended distance and have taller buildings from the street due to the size of the lots, therefore the request would not alter the essential character of the neighborhood.

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 variance is sought is due to unique circumstances existing on the property such as the size and location of the lot. The variance request is not merely financial.

Second: Kaplan

In Favor: Spielman, Albert, Vasquez, Manna, Kaplan, Zuniga, Menchaca, Cruz, Bragman, Ozuna, and Oroian

Opposed: None

Motion passes.

Item #8

BOA-22-10300153: A request by Parra & Co., LLC for a variance to reduction number of trees and shrubs within the Type B Landscape Buffer to 1 for every 100 lineal feet along the front property line, located at 14135 IH 37 South. Staff recommends Approval. (Council District 3) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 3 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and there is no registered neighborhood association.

Eduardo, representative, - stated they are relocating some tree because there will not be enough space for an 18 wheel truck to turn.

No Public Comment

Chair Oroian asked for a motion for item **BOA-22-10300153**, as presented.

Kaplan made a motion for **BOA-22-10300153** for approval.

Regarding Case No. **BOA-22-10300153**, I move that the Board of Adjustment grant a request for a variance to reduction number of trees and shrubs within the Type B Landscape Buffer, as described in Section 35-510, to 1 for every 100 lineal feet along the front property line, situated at 14135 IH 37 South, applicant being Parra & Co., 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 because*

the applicant has requested a variance to reduce the number of trees and shrubs within the Type B Landscape Buffer to 1 for every 100 lineal feet along the front property line.

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

would result in the required number of trees and shrubs being required within the Type B landscape buffer. This would result in an unnecessary hardship.

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

the reduction in the number of trees and shrubs within the Type B Landscape Buffer to 1 for every 100 lineal feet along the front property line will observe the spirit of the ordinance and will not adversely affect surrounding properties in the immediate 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*

as the property is zoned “C-2” and the use of the property is commercial.

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 because*

the landscape buffer variance will not alter the essential character of the district.

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

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 unique character of the business would be hindered by the existing buffer standard.

Second: Manna

In Favor: Spielman, Albert, Vasquez, Kaplan, Zuniga, Menchaca, Cruz, Bragman, Ozuna, and Oroian

Opposed: Manna

Motion passes.

Item #9

BOA-22-10300167: A request by Stewart Blanton for a 14' variance from the minimum 20' rear setback requirement to allow a structure to be 6' from the rear property line, located at 403 and 407 Laverne Avenue. Staff recommends Approval. (Council District 6) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 45 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and no response from the Community Workers Council Neighborhood Association.

Michael Gustos, representative, - stated they are making a brand-new foundation and building where an old building once stood.

No Public Comment

Chair Oroian asked for a motion for item **BOA-22-10300167** as presented

Manna made a motion for **BOA-22-10300167**

Regarding Case No. BOA-22-10300167, I move that the Board of Adjustment grant a request for a 14' variance from the minimum 20' rear setback requirement to allow a structure to be 6' from the rear property line, situated at 403 & 407 Laverne, applicant being Stewart Blanton, 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 variance to the rear setback to allow a structure to be 6' from the rear property line. The structure will meet the front and side setback requirement and does not appear to be contrary to the public interest.

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

A literal enforcement of the ordinance would result in the applicant having to maintain 20' from the rear property line. Staff finds an unnecessary hardship since the lot is too small to allow the development of a structure with this requirement.

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

The structure has not been constructed and the proposed setback is 6' from the rear property line. The spirit of the ordinance will be observed as there will still be reasonable space between the structure and 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 does not find evidence that the requested variance would alter the essential character of the district. The neighborhood in which the subject property is located has several similar sized 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.*

Because of the width of the lot and configuration. Maintaining a 6' rear setback is appropriate for the area. The request is not merely financial.

Second: Kaplan

In Favor: Spielman, Albert, Vasquez, Manna, Kaplan, Zuniga, Menchaca, Cruz, Bragman, Ozuna, and Oroian

Opposed: None

Motion passes.

The meeting went into recess at 4:22P.M. and reconvened at 4:29P.M and Commissioner Cruz left the meeting.

Item #12 **BOA-22-10300188**: A request by Jeff Nuche for 15'-2" variance from the 30' height building maximum within 100' of any perimeter abutting a residential use to allow a structure to be 45'-2" high within 100 ft from the side property line, generally located on the 5200 Eisenhower Road. Staff recommends Approval. (Council District 2) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff mentioned 43 notices had been mailed out, 0 returned in favor, 1 returned in opposition, and there is no response from the Northwest Crossing Association.

Jeff Nuche, applicant, - stated they wanted to put up three buildings and some trees.

Public Comment:

Camelot 1 President, is in opposition

Beth McGuiness, is concerned with noise and is in opposition

Juleanna Cline, is in opposition

Chair Oroian asked for a motion for item **BOA-22-10300188** as presented

Ozuna made a motion for **BOA-22-10300188** for approval.

Regarding Case No. **BOA-22-10300188**, I move that the Board of Adjustment grant a request for an 8ft variance from the 30' height building maximum within 100' of any perimeter abutting a residential use to allow a structure to be 38' high within 100' from the side property line. , generally Located on the 5200 Eisenhower Road, applicant being Jeff Nuche, 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 structure will have a maximum height of 45' 2" and does not appear to be contrary to the public interest.

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

Staff finds an unnecessary hardship due to topography issues that are presently on the lot.

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

The structure has not been constructed and the proposed maximum height will be 45' 2". The spirit of the ordinance will be observed as there will still be reasonable space

between the structure and 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 does not find evidence that the requested variance would alter the essential character of the district. The neighborhood in which the subject property is near of has a reasonable distance of the proposed building.

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.*

Unique circumstances on the property include width of the lot and configuration of the existing topography issues on the lot. The request is not merely financial.

Second: Zuniga

In Favor: Spielman, Vasquez, Kaplan, Zuniga, Menchaca, Ingalls, Bragman, Ozuna, and Oroian

Opposed: Albert and Manna

Motion passes.

Commissioner Kaplan left the meeting at 5:33 P.M..

Item #13

BOA-22-10300189: A request by Alejandra Moralda for 1) an 8' variance from the 10' minimum front setback to allow an addition to be 2' from the front property line, 2) a request for an 20' and 5'-3" variance from the 25' and 15' minimum clear vision requirement to allow a solid screen fence to be 5' from the curb and 9'-9" from a driveway, and 3) a request for a 1' special exemption from the 5' maximum fence height to allow a 6' solid screen fence in the front yard, located at 714 South Navidad. Staff recommends Approval for the zoning variance and the special exemption. (Council District 5) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff mentioned 30 notices had been mailed out, 0 returned in favor, 0 returned in opposition, and the Historic Westside Residents Homeowners Association is opposed.

Item 13 is postponed because it is advertised incorrectly.

Item #14 **BOA-22-10300191**: A request by Ben DeLafuente for a 1) a 4’4” variance from the minimum 5’ side setback requirement to allow an attached carport with gutters to be 8” from the side property line, 2) a 6’8” variance from the minimum 10’ front setback requirement to allow an attached carport with gutters to be 3’4” from the front property line, located at 5827 Magnes Lane. Staff recommends Denial. (Council District 6) (Joseph Leos, Planner (210) 207-3074, joseph.leos@sanantonio.gov, Development Services Department)

Staff mentioned 30 notices had been mailed out, 0 returned in favor, 0 returned in opposition, and there was no response from the Cable Westwood Association.

Ben De LaFuenta, applicant, - stated his mother did not know she needed a permit to build the carport.

No Public Comment

Chair Oroian asked for a **motion** on **BOA-22-10300191** as presented.

Manna made a motion for **BOA-22-10300191** for approval.

Regarding Case No. BOA-22-10300191, I move that the Board of Adjustment grant a request for 1) a 4’-4” variance from the minimum 5’ side setback requirement to allow an attached carport with gutters to be 8” from the side property line, and 2) a 6’-8” variance from the minimum 10’ front setback requirement to allow an attached carport with gutters to be 3’-4” from the front property line, situated at 5827 Magnes Lane, applicant being Ben De La Fuente, 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 because*

it will allow the existing carport to be 8” from the side property line and 3’4” from the front property line.

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

it would result in the applicant having to alter the carport to be 10’ and 5’ away from the front and side property lines or removing the structure entirely. The unnecessary hardship is the carport being existing.

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

the requested variance is to allow the carport to be closer to the side and front property lines. Because of the carport being existing, this will observe the spirit of the ordinance.

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

as the property is zoned “R-6” and the use of the property is a single-family dwelling.

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 because*

other carports can be seen in the surrounding area. Consequently, the essential character of the district will not be altered.

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.*

It appears the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property. The request does not appear to be merely financial.

Second: **Bragman**

In Favor: Spielman, Albert, Vasquez, Manna, Zuniga, Ingalls, Bragman, Ozuna, and Oroian

Opposed: Menchaca

Motion passes.

Commissioner Ingalls logged off Webex leaving the meeting.

Item # 15

BOA-22-10300194: A request by Rachel Flores Jacinto for 1) a 1' 3" variance from the maximum 3' solid screened fence requirement to allow a solid screened fence to be 4' 3" tall along the front yard, 2) a 3' 11" variance from the minimum 15' clear vision requirement to allow a solid screened fence to be 11' 1" from the front curb, 3) a 16' variance from the minimum 25' clear vision requirement to allow a fence to be 9' from the side curb, and 4) a 1' 4" variance from the minimum 5' side setback requirement to allow a carport to be 3' 8" from the side property line, located at 126 Adelpia Avenue. Staff recommends Approval for Side Setback and Clear Vision Variances. Staff recommends Denial for Fence Height Variance. (Council District 3) (Rebecca Rodriguez, Senior Planner, (210) 207-0120, Rebecca.Rodriguez@sanantonio.gov, Development Services Department)

Staff mentioned 22 notices had been mailed out, 0 returned in favor, 0 returned in opposition, and the Mission San Jose Neighborhood Association is in favor.

Albert Jacinto, representative, stated- they have owned the house for 30 years and want the fence for safety.

Public Comment:

Jane Henry, is in favor

Chair Oroian asked for a **motion** for item **BOA-22-10300194** as presented

Manna made a motion for **BOA-22-10300194** for approval

Regarding Case No. BOA-22-10300194, I move that the Board of Adjustment grant a request for 1) a 1' 3" variance from the maximum 3' solid screened fence requirement to allow a solid screened fence to be 4' 3" tall along the north front yard, 2) a 3' 11" variance from the minimum 15' clear vision requirement to allow a solid screened fence to be 11' 1" from the north front curb, 3) a 16' variance from the minimum 25' clear vision requirement to allow a fence to be 9' from the north side curb, and 4) a 1' 4" variance from the minimum 5' side setback requirement to allow a carport to be 3' 8" from the side property line, situated at 126 Adelphia, applicant being Rachel Jacinto, 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 because*

the carport setback provides adequate spacing between the neighboring property, the rear fence is made of predominantly open materials that alleviates the encroachment into the clear vision field, and the new solid screened fence along the front is a practical height.

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

it would result in having to decrease the square footage and width of the carport which cannot accommodate a vehicle. The clear vision requirement cannot be achieved due to the size of the lot, and the front yard fence would need to be reduced in height.

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

the carport and rear fence meet all other code requirements. The front yard fence does not exceed 5' in height therefore the request does not appear unreasonable.

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*

as the property is zoned "R-6" and the use of the property is a single-family dwelling.

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 because*

the carport side setback along with the front and rear yard fences do not appear 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.*

There are unique circumstances existing on the property such as the size and location of the property.

Second: Zuniga

In Favor: Spielman, Albert, Vasquez, Manna, Zuniga, Menchaca, Bragman, Ozuna, and Oroian

Opposed: None

Motion passes.

Item # 16 A calendar for 2023 BOA meeting dates is shown and discussed.

Chair Oroian asked for a **motion** to accept the calendar

Albert made a motion to approve

Second: Menchaca

All voice-voted Aye.

Approval of Minutes

Manna made a motion for Approval of the October 24, 2022 minutes.

Second: Menchaca

All voice-voted aye.

Opposed: None

Minutes Approved.

Director's Report

The November 29th meeting for the 2022 calendar year is removed and the December 12th meeting date is kept.

Adjournment

There being no further business, the meeting was adjourned at 6:27 P.M.

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary