

City of San Antonio



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

Monday, January 9, 2023

1:00 PM

1901 S. Alamo

1:02 PM – Call to Order

Roll Call – Present: Spielman, Menchaca, Lynde, Cruz, Zuniga, Manna, Kaplan, Bragman, Ozuna, Oroian

Absent: None

SeproTec translator were present.

THE FOLLOWING ITEMS MAY BE CONSIDERED AT ANY TIME DURING THE REGULAR PLANNING COMMISSION MEETING:

Public Hearing and Consideration of the following Plats, Variances, Special Exceptions, Appeals, as identified below.

Commissioner Cruz joined the meeting at 1:07 PM

Item #1

Logan Sparrow, Policy Administrator, briefed commission on forth coming appeals of the revocation of Short-Term Rental (STR) Permits.

Item #2

(POSTPONED) BOA-22-10300263

Item #3

BOA-22-10300250: A request by Ana Costa for an appeal of the Principal Planner's decision of Denial for a Nonconforming Use Registration for Dwelling – Two (2) Family, located at 330 West Hermosa Drive. Staff recommends denial. (Council District 1) (Rebecca Rodriguez, Senior Planner, (210) 207-0120, Rebecca.Rodriguez@sanantonio.gov, Development Services Department)

Staff stated 27 notices were mailed to property owners within 200 feet, 0 returned in favor, 4 returned in opposition, and there was no response from Edison Neighborhood Association.

Ana Costa, applicant, stated the property was purchased with the thought of 2 units. Each unit with its own address and meter. She stated she cannot reside on 330 West Hermosa because she owns a larger home that better accommodates her family.

No Public Comment

MOTION

A motion for denial was made by Commissioner Bragman. Regarding Case No. **BOA-22-10300250**, I move that the Board of Adjustment grant an appeal of the Principal Planner's decision of denial for a Nonconforming Use Registration for Dwelling – Two (2) Family, situated at 330 West Hermosa Drive, applicant being Ana Costa. The motion was seconded by Commissioner Ozuna

Favor: None

Opposed: Bragman, Ozuna, Spielman, Menchaca, Lynde, Cruz, Zuniga, Manna, Kaplan, Oroian

MOTION FAILS

Item #4

BOA-22-10300163: A request by Margarito Gallegos for 1) a 4'-11" variance from the 5' minimum side setback requirement to allow a detached carport with gutters to be 1" from the side property line and 2) a 4'-6" variance from the 5' minimum side setback requirement to allow an accessory structure to be 6" from the side property line, located at 1410 Hermine Boulevard. Staff recommends denial with an alternate recommendation. (Council District 1) (Joseph Leos, Planner, (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department)

Staff stated 32 notices had been mailed out, 0 returned in favor, 1 returned in opposition, and there is no registered neighborhood association for the subject property.

Margarito Gallegos, Owner, stated the purpose of this request is allow adequate space for his truck and trailer and for safety purposes for his family.

No Public Comment

MOTION

A motion was made by Commissioner Ozuna. Regarding Case No. **BOA-22-10300163**, I move that the Board of Adjustment grant 1) 2-foot variance from the 5' minimum side setback requirement to allow a detached carport with gutters to be 3 feet from the side property line and 2) a 2 foot variance from the 5' minimum side setback requirement to allow an accessory structure to be 3 feet from the side property line, situated at 1410 Hermine Boulevard, applicant being Margarito Gallegos, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

The public interest is defined as the general health, safety, and welfare of the public. The applicant is requesting a variance to the side setback to allow a detached carport and accessory structure to be 2 feet from the side property line. These distances provide adequate spacing from the neighboring property which is not 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 reconstructing the carport and accessory structure 5' from the side property line. This would result in an unnecessary hardship, as the carport and accessory structure are already constructed.

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 proposed setbacks for the carport and accessory structure appear to observe the spirit of the ordinance as they will not be too close to the neighboring 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.*

If granted, the carport and structure will maintain 2 feet from the side property line, which is not likely to alter the essential character of the district and affect adjacent conforming 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, such as the size of the property.

The motion was seconded by Commissioner Bragman

Favor: Ozuna, Bragman, Spielman, Menchaca, Lynde, Cruz, Zuniga, Manna, Kaplan, Oroian
Opposed: None

MOTION PASSES

Item #5

BOA-22-10300193: A request by Catherine Ann Reichardt for a 9' variance from the minimum 10' front setback requirement to allow a carport to be 1' from the front property line, located at 254 Savannah Drive. Staff recommends approval. (Council District 1) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 32 notices had been mailed out, 1 returned in favor, 0 returned in opposition, and there was no response from Dell View Area Neighborhood Association.

Catherine Ann Reichardt, applicant, stated in 2016 she hired a contractor to widen her driveway for 2 vehicles and build a carport and was told a permit was not required because she was 10 feet back from the street.

No Public Comment**MOTION**

A motion was made by Commissioner Bragman. Regarding Case No. **BOA-22-1030193**, I move that the Board of Adjustment grant a request for a 9' variance from the minimum 10' front setback requirement, to allow an attached carport to be 1' from the front property line, situated at 254 Savannah Drive, applicant being Catherine Ann Reichardt, 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 front yard does not have adequate space to have a front setback of 10-foot. The structure will meet the side setback requirement but 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 hardship on the lot as there is not adequate space to meet the minimum front setback requirement for the carport.
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 as the attached carport cannot meet the 10-foot minimum front setback requirement and fit a vehicle.
4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the zoning district in which the variance is located.*
No uses other than those allowed within the district will be allowed with this variance.

5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*
Staff finds evidence that the requested variance would not alter the essential character of the district as the front yard cannot support the length of a vehicle under a carport.
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 existing residence, maintaining a 10-foot front setback is not appropriate for the area. The request is not merely financial.

The motion was seconded by Commissioner Manna

Favor: Bragman, Manna, Spielman, Menchaca, Lynde, Cruz, Zuniga, Kaplan, Ozuna, Oroian

Opposed: None

MOTION PASSES

Items #6

BOA-22-10300203: A request by Luis Faraklas, P.E. for a 9'-11" variance from the 10' minimum front setback requirement to allow an attached carport to be 1" from the front property line, located at 16915 Vista Forest Drive. Staff recommends denial. (Council District 10) (Joseph Leos, Planner, (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department)

Staff stated 32 notices had been mailed out, 0 returned in favor, 0 returned in opposition, and Vista Neighborhood Association is in opposition.

Rafael Guerra, owner, stated he hired a contractor to build his carport and was unaware no permits were pulled. He stated he visited his adjacent and surrounding neighbors and collected 10 signatures expressing their support.

No Public Comment

MOTION

A motion was made by Commissioner Ozuna. Regarding Case No. **BOA-22-10300203**, I move that the Board of Adjustment grant a request for a 9'-11" variance from the 10' minimum front setback, as described in Section 35-310.01, to allow an attached carport to be 1" from the back of the sidewalk, situated at 16915 Vista Forest Drive, applicant being Luis Faraklas, P.E., because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

The public interest is defined as the general health, safety, and welfare of the public. The applicant is requesting a variance to the front setback to allow an attached carport to be 1" from the back of the sidewalk. This spacing provides suitable spacing between the carport and curb which is not 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 building the carport 10 feet from back of the sidewalk or demolishing the carport, which would result in an unnecessary hardship as there is limited spacing to build a sizeable carport.

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 carport would be 1" from the back of the sidewalk, which will observe the spirit of the ordinance because it would provide adequate distance from the sidewalk.

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 carport will maintain 1" from the back of the sidewalk. This distance provides adequate spacing, which is not likely to injure adjacent conforming properties and alter the essential character of the district.

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

Staff finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, such as limited spacing in the front. 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

Favor: Ozuna, Cruz, Zuniga, Bragman, Oroian

Opposed: Spielman, Menchaca, Lynde, Manna, Kaplan

MOTION FAILS

Item #7

BOA-22-10300223: A request by Marcus Bledsoe for a 250 square foot lot size variance from the 4,000 minimum lot size to allow a lot to be 3,750 square feet, located at 1614 San Carlos Street. Staff recommends approval. (Council District 5) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 31 notices had been mailed out, 0 returned in favor, 0 returned in opposition, and no response from El Charro Neighborhood Association.

Marcus Bledsoe, representative, the purpose of this request is to allow for the development of a small residential home on the subject property. He stated the building permit, and a Certificate of Determination has been submitted pending the outcome this case.

No Public Comment**MOTION**

A motion was made by Commissioner Bragman. Regarding Case No. **BOA-22-10300223**, I move that the Board of Adjustment grant a request for a 250 square foot lot size variance from the 4,000 minimum lot size, to allow a lot to be 3,750 square feet, situated at 1614 San Carlos Street, applicant being Marcus Bledsoe, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

The public interest is defined as the general health, safety, and welfare of the public. The applicant is requesting a 250 square foot variance from the 4,000 minimum lot size requirements. The variance request does not appear to be contrary to the public interest, as granting the variance would allow the development of a single-family residence.

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 having to maintain the property vacant as it would not be developable with the current square footage.

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. No other uses will be permitted on the property other than a single-family residence. The request appears to observe the spirit of the ordinance.

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

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

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

Staff does not find evidence that the requested variance would alter the essential character of the district. The properties adjacent to the subject property also do not meet the minimum lot size requirements of the "R-4" base zoning district therefore injury to adjacent properties is highly unlikely.

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 request does not appear merely financial.

The motion was seconded by Commissioner Cruz

Favor: Bragman, Cruz, Spielman, Menchaca, Lynde, Zuniga, Manna, Kaplan, Ozuna, Oroian

Opposed: None

MOTION PASSES

Item #8

BOA-22-10300225: A request by Daryl Shelton for 1) a 14'-11" variance from the minimum 15' side setback from the Highway 151 Gateway Corridor Overlay District to allow a fence with barbwire to be 1" from the side property lines, 2) a 23'-11" variance from the minimum 30' rear setback (with 6' credit from alley) to allow a fence with barbed wire to be 1" from the rear property line, 3) a 9' variance from the minimum 25' clear vision requirement to allow a fence to be 16' from the side curb, 4) a 12' variance from the 15' clear vision requirement to allow a fence to be 3' from driveways, 5) a 2' special exception from the maximum 6' fence height to allow a predominately open fence to be 8' tall along the side and rear property lines, and 6) a 3' special exception from the maximum 5' fence height to allow a predominately open fence to be 8' tall along the front property lines, located at 258 Ardmore Street. Staff recommends Approval for the Side (West) Fence Setback, Rear Fence Setback, Clear Vision Variances and Front, Side and Rear Fence Special Exception. Staff recommends denial for the Side (East) Fence Setback Variance. (Council District 6) (Rebecca Rodriguez, Senior Planner, (210) 207-0120, Rebecca.Rodriguez@sanantonio.gov, Development Services Department)

Staff stated 27 notices had been mailed out, 0 returned in favor, 0 returned in opposition, and no response from Community Workers Council nor Los Jardines Neighborhood Association.

Daryl Shelton, applicant, stated he has had several burglaries, and which is the purpose of the barbed wire fencing. Since the fence has been installed there has been no more burglaries. He stated he is agreeable in removing the portion that abuts the residential lot.

No Public Comment

1st MOTION

A motion was made by Commissioner Manna. Regarding Case No. **BOA-22-10300225**, I move that the Board of Adjustment grant a request for 1) a 2' special exception from the maximum 6' fence height to allow a predominately open fence to be 8' tall along the east side property lines, and 2) a 1' special exception from the maximum 5' fence height to allow a predominately open fence to be 6' tall along the front property lines, situated at 258 Ardmore Street, applicant being Daryl Shelton, 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 proposed 8' fence will be located along the side property lines and 6' fence with barbed wire along the front and rear property line. If granted, staff finds the request would be in harmony with the spirit and purpose of the ordinance as the fence will be made of predominately open materials.
- B. *The public welfare and convenience will be substantially served.*
Installing a new 8' fence does not pose any adverse effects to the public welfare. The fence may discourage any additional commercial encroachment into the residential neighborhood by providing a separation between the commercial properties at the corners and the residential neighborhood to the East.
- C. *The neighboring property will not be substantially injured by such proposed use.*
The adjacent property is currently vacant and can maintain a 6' predominately open fence by right and allow for 2' extension.
- 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 material being maintained is predominantly open, and other predominantly open fences were observed on Ardmore Street. Injury to the character of the district is highly unlikely.
- E. *The special exception will not weaken the general purpose of the district, or the regulations herein established for the specific district.*
The current zoning allows light commercial uses. The requested special exception will not weaken the general purpose of the district.

The motion was seconded by Commissioner Oroian

Favor: Manna, Oroian, Spielman, Menchaca, Lynde, Cruz, Zuniga, Kaplan, Bragman, Ozuna

Opposed: None

MOTION PASSES

2nd MOTION

A motion was made by Commissioner Manna. Regarding Case No. **BOA-22-10300225**, I move that the Board of Adjustment grant a request for 2) a 23'-11" variance from the minimum 30' rear setback (with 6' credit from alley) to allow a fence with barbed wire to be 1" from the rear property line, 3) a 9' variance from the minimum 25' clear vision requirement to allow a fence to be 16' from the side curb, and 4) a 12' variance from the 15' clear vision requirement to allow a fence to be 3' from driveways, situated at 258 Ardmore Street, applicant being Daryl Shelton, 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 request is for a reduction on the setbacks and clear vision requirement for a barbed wire fence. While the fence will contain barbed wire, the fence itself is made of chain link which is a permitted material, and it is predominantly open.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship because*
The lot is too small to meet all the fencing requirements for a corner lot and a barbed wire fence.
3. *By granting the variance, the spirit of the ordinance will be observed, and substantial justice will be done as*
The fence will enhance security on the subject property. Additionally, the property is located on a corner lot along S. Acme and maintains an alley to the rear.
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 because*
The requested variances do not pose a hazard to neighboring properties. The subject property is a corner lot located on Ardmore and South Acme Road, which observes a high volume of vehicular traffic.
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 that the requested variance is sought because of the size of the lot and the C-1 requirements. Due to the size of the lot, it would be difficult to achieve 15' side setbacks and 30' rear setback all while meeting the clear vision requirements for the fence.

The motion was seconded by Commissioner Oroian

Commissioner Manna stated he would like to amend the motion to include 14' 11" variance from the minimum 15' side setback on the west side from Highway 151. Commissioner Oroian accepted the friendly amendment.

Favor: Manna, Oroian, Spielman, Menchaca, Lynde, Cruz, Zuniga, Kaplan, Bragman, Ozuna
Opposed: None

MOTION PASSES

Commission took a break and reconvened at 3:18 pm

Item #9

BOA-22-10300247: A request by Jose Esquivel-Vega for 1) a 2' variance from the minimum 5' side setback requirement to allow a carport to be 3' with 6" of overhang from the side property line side and 2) a 2'-2" variance from the minimum 10' front setback requirement to allow a carport to be 7'-10" from the front property line side, located at 10903 Lazy Oaks Drive. Staff recommends approval for the Side Setback Variance. Staff recommends denial for the Front Setback Variance. (Council District 10) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 32 notices had been mailed out, 0 returned in favor, 0 returned in opposition, and no response from Oak Groves Estates Homeowners Association.

Spanish Translator assisted

Jose Esquivel-Vega, owner, stated he constructed the carport as a need to protect his vehicles from storms and damages to materials he carries in the bed of this truck from his construction job. Being that there was an existing carport, he was unaware that permits were needed. During the construction of replacing with the new carport, he was visited by city representatives at which the work was stopped, and he was advised about the permitting process.

No Public Comment

MOTION

A motion was made by Commissioner Manna. Regarding Case No. **BOA-22-1030247**, I move that the Board of Adjustment grant a request for 1) a 2' variance from the minimum 5' side setback requirement, to allow a carport to be 3' with 6" of overhang from the side property line to include gutters and 2) a 2'-2" variance from the minimum 10' front setback requirement, to allow a carport to be 7'-10" from the front property line side, situated at 10903 Lazy Oaks Drive, applicant being Jose Esquivel-Vega, 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 appears to provide adequate space along the side property line and the front property line. There is minimal chance of water runoff to the adjacent property and the right of way in front of the carport therefore the carport is not contrary to the public's interest.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
Staff finds an unnecessary hardship due to the limited size of the front yard and possibly having to demolish the carport to conform to the setbacks.
3. *By granting the variance, the spirit of the ordinance will be observed, and substantial justice will be done.*
The requested variance is to allow a structure to be closer to the side property line and front property line. Due to the configuration of the property 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.*
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 not alter the essential character of the district. Additional properties in the area have accessory structures within the side setback and front 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.

The motion was seconded by Commissioner Cruz

Favor: Manna, Cruz, Spielman, Menchaca, Lynde, Manna, Kaplan, Bragman, Ozuna, Oroian

Opposed: Zuniga

MOTION PASSES

Items #10

BOA-22-10300249: A request by Marina Rodriguez for a 2'-4" variance from the minimum 5' side setback to allow a structure to be 2'-8" from the side property line, located at 1446 Vanderbilt Street. Staff recommends approval. (Council District 3) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 32 notices had been mailed out, 0 returned in favor, 0 returned in opposition, and no response from Highland Park nor Southeast Side Homeowners Associations.

Spanish Translator assisted

Marina Rodriguez, stated during the repairing and replacing the exiting stairwell, they were visited by City staff and were giving a stop work order as no permits were pulled. She stated they were unaware that a permit needed to be pulled for repairing/replacing existing stairwell and added a roof with a small deck to protect the stairwell. She stated after the 2021 snowstorm, the stairwell fell apart.

Public Comment

Isaac Mendoza, part of Highland Park Neighborhood Association, stated his only concern is how would this have an impact on the fire code, if any, and would the structure need additional deterrent

Tom Wetzler, spoke in support of construction of stairwell only.

MOTION

A motion was made by Commissioner Manna. Regarding Case No. **BOA-22-1030249**, I move that the Board of Adjustment grant a request for a 2'-4" variance from the minimum 5' side setback, to allow a structure to be 2'-8" from the side property line, situated at 1446 Vanderbilt Street, applicant being Marina Rodriguez, 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 appears to provide adequate space along the side property line and is not 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 the limited size of the rear yard.
3. *By granting the variance, the spirit of the ordinance will be observed, and substantial justice will be done.*
The requested variance is to allow a structure to be closer to the side property line. Due to the configuration of the property and the structure 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.*
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 stair structure was built in order to have access to the second story of the home.
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.

The motion was seconded by Commissioner Cruz

Favor: Manna, Cruz, Spielman, Menchaca, Lynde, Zuniga, Kaplan, Bragman, Ozuna, Oroian

Opposed: None

MOTION PASSES

Item #11

BOA-22-10300253: A request by Steve Dallas for 1) a 4" variance from the minimum 5' side setback requirement to allow a detached carport to be 4'-8" from the side property line, 2) a 13'-4" variance from the maximum residential curb cut width of 20' to allow a 33'-4" curb cut in the front driveway, and 3) a 9'11" variance from the minimum 10' front setback requirement to allow a detached carport to be 1" from the front property line, located at 2902 Hunters Den Street. Staff recommends approval for the Side Setback Variance. Staff recommends denial for the Front Setback and Curb Cut Variance. (Council District 8) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)
Commissioner Bustamante exited the meeting for recusal purposes at 2:04 pm.

Staff stated 23 notices had been mailed out, 0 returned in favor, 1 returned in opposition outside the 200' foot radius, and no registered Homeowners Association.

Steve Dallas, owner, he recently purchased a truck and unfortunately does not fit in his garage which is why he is proposing to build a detached carport. He stated his goal is to have it situated as close to the house as possible. The carport will be design in keeping of the residential character and to match color scheme of their home. He has been in contact with his surrounding neighbors who have expressed their support for the proposed carport.

No Public Comment

MOTION

A motion was made by Commissioner Ozuna. Regarding Case No. **BOA-22-10300253**, I move that the Board of Adjustment grant a request for 1) a 4" variance from the minimum 5' side setback requirement to allow a detached carport to be 4'-8" from the side property line, 2) a 13'-4" variance from the maximum residential curb cut width of 20' to allow a 33'-4" curb cut in the front driveway, and 3) a 9'11" variance from the minimum 10' front setback requirement to allow a detached carport to be 1" from the front property line, situated at 2902 Hunters Den Street, applicant being Steve Dallas, 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 is appearing to provide adequate space along the side and front property line, as well as the wider curb cut is appropriate for the area and will not cause adverse effects to the neighboring property.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
Staff finds hardship due to the size and orientation of the lot.
3. *By granting the variance, the spirit of the ordinance will be observed, and substantial justice will be done.*
A requested variance is to allow a structure to be closer to the side property line. There appears to be adequate space to the neighboring property. The spirit of the ordinance will be observed for the front setback variance and curb cut variance. The right of way will not be negatively affected.
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 accessory structure may alter the essential character of the district.
6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial and are not due to or the result of general conditions in the district in which the property is located.*
The circumstances of the lot were not created by the owner, therefore there are unique circumstances exist on the property.

The motion was seconded by Commissioner Manna

Favor: Ozuna, Manna, Spielman, Menchaca, Lynde, Cruz, Zuniga, Kaplan, Bragman, Oroian
Opposed: None

MOTION PASSES

Items #12

BOA-22-10300254: A request by Zamarripa Real Estate Investments, LLC for a Special Exception to allow one (1) additional Type 2 Short Term Rental permit on the block face, located at 403 Montana Street. Staff recommends Denial. (Council District 2) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 35 notices had been mailed out, 1 returned in favor, 0 returned in opposition, and no response from Alamo Dome Gardens Neighborhood Association.

Jesus Zamarripa, co-owner, stated he is seeking a variance for a Short-Term Rental (STR) Type 2 permit. He stated this structure has been designated a historic landmark by the Office of Historic Commission in January 2021.

No Public Comment

MOTION

A motion was made by Commissioner Ozuna. Regarding Case No. **BOA-22-10300254**, I move that the Board of Adjustment grant a special exception to allow for (1) Type 2 short term rental unit, situated at 403 Montana Street, applicant being Zamarripa Real Estate Investments, 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:

- 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 unique 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 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.

The motion was seconded by Commissioner Manna.

Favor: Ozuna, Manna, Bragman, Oroian

Opposed: Spielman, Menchaca, Lynde, Cruz, Zuniga

Abstain: Kaplan

MOTION FAILS

Commission took a break and reconvened at 4:51 pm

Commissioner Lynde left meeting for recusal purposes

Item #13

BOA-22-10300255: A request by Nathan Manfred for 1) a 4'-11" variance from the minimum 5' side setback requirement to allow an existing structure to be 1" from the side property line and a new structure with a 5'-2" width to be 3'-6" from the side property line, 2) a 4" variance from the minimum 5' side setback requirement to allow an accessory structure to be 4'-8" from the side property line, and 3) a request for a 5'-7" variance from the minimum 10' front setback requirement to allow a structure to be 4'-5" from the front property line, located at 337 Madison Street. Staff recommends approval. (Council District 1) (Joseph Leos, Planner, (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department)

Staff stated 85 notices had been mailed out, 1 returned in favor, 0 returned in opposition, and no response from King William Neighborhood Association.

Commissioner Lynde step out.

Nathan Manfred, applicant, stated the homeowners are experiencing mobility issues and after assessing the structure, the best and least intervention approach to an elevator would be constructed on the side of the

house. He stated they have received letter of support from King William Architectural Review Board as well as Historic and Design Review Commission.

No Public Comment

MOTION

A motion was made by Commissioner Bragman. Regarding Case No. **BOA-22-1030255**, I move that the Board of Adjustment grant a request for 1) a 4'-11" variance from the minimum 5' side setback requirement, to allow an existing structure to be 1" from the side property line and a new structure with a 5'-2" width to be 3'-6" from the side property line, 2) a 4" variance from the minimum 5' side setback requirement, to allow an accessory structure to be 4'-8" from the side property line, and 3) a request for a 5'-7" variance from the minimum 10' front setback requirement, to allow a structure to be 4'-5" from the front property line, situated at 337 Madison Street, applicant being Nathan Manfred, 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 a 4'-11" variance to allow an existing structure to be 1" from the side property line and a new structure with a 5'-2" width to be 3'-6" from the side property line, a 4" to allow an accessory structure to be 4'-8" from the side property line, and a request for a 5'-7" variance to allow a structure to be 4'-5" from the front property line are not contrary to the public interest, as these distances provide adequate spacing between adjacent 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 existing and new structures 5' and 10' from the side and front property line, which would result in an unnecessary hardship as the existing structures are non-conforming and will prevent the applicant from constructing a new structure that is sizeable.

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 existing structures in their current place will provide a decent amount of distance between adjacent properties. Additionally, the new structure is anticipated to be a 5'-2" width and to be 3'-6" from the side property line, which observes the spirit of the ordinance.

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

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

5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*
If granted, the existing structures will continue to maintain 1" and from the side property line and 4'-5" from the front property from the side property line, which is not likely to alter the essential character of the district as other narrow lots were found in the immediate area. Additionally, this narrowness will prevent the applicant from constructing a decent sized structure.
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 subject property being situated on a narrow lot. The circumstances do not appear to be merely financial.

The motion was seconded by Commissioner Cruz.

Favor: Bragman, Cruz, Spielman, Menchaca, Zuniga, Manna, Kaplan, Ozuna, Oroian

Opposed: None

MOTION PASSES

Commissioner Lynde reentered the meeting at 5:04 pm.

Item #17

BOA-22-10300259: A request by Lewis Martin for a 140' variance to the minimum 200' distance required to allow an antenna support structure to be 60' from a residential zoned district, located at 435 South Ellison Drive. Staff recommends approval. (Council District 4) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 52 notices had been mailed out, 2 returned in favor, 0 returned in opposition, and no response from Heritage Homeowners Association.

Lewis Martin, representing Verizon Wireless, stated they are proposing to place a wireless tower on the subject property. He stated they will situate the tower away from residential properties and away from the church as to not offend those adjacent properties.

Commissioner Kaplan stated she is still unable to see exhibits and has missed more than half of the presentation therefore she will be abstaining from this case.

No Public Comment**MOTION**

A motion was made by Commissioner Manna. Regarding Case No. **BOA-22-1030259**, I move that the Board of Adjustment grant a request for a request for a 140' variance to the minimum 200' distance required, to allow an antenna support structure to be 60' from a residential zoned district, situated at 435 South Ellison Drive, applicant being Lewis Martin, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

1. *The variance is not contrary to the public interest.*
The proposed antenna structure will be at least 60' from a residential zoned district. This residentially zoned district is a parking lot and will not 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 the closest residentially zoned district is a parking lot.
3. *By granting the variance, the spirit of the ordinance will be observed, and substantial justice will be done.*
Due to the configuration of the property and the closest residentially zoned district being a parking lot, 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.*
No uses other than those allowed within the district will be allowed with this variance.
5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*
Staff finds that the antenna support structure will be far enough from residential districts 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.

The motion was seconded by Commissioner Cruz.

Favor: Manna, Cruz, Spielman, Menchaca, Lynde, Bragman, Ozuna, Oroian

Opposed: Zuniga

Abstain: Kaplan

MOTION FAILS

Before reading the results, Chair Oroian asked if Commissioner Kaplan would not abstain from voting if she could view supporting exhibits that may have not be clear during the presentation due to attending virtually. Chair Oroian requested staff to display certain application package exhibits for Commissioner Kaplan.

Commission Kaplan changed her vote to concur.

Favor: Manna, Cruz, Spielman, Menchaca, Lynde, Kaplan, Bragman, Ozuna, Oroian

Opposed: Zuniga

MOTION PASSES

Commissioner Cruz left the meeting at 5:51 pm

Item #14

BOA-22-10300256: A request by Jose Garcia for 1) a 3'-5" special exception from the maximum 3' fence height to allow a 6' 5" solid screened privacy fence along the front and side of the property lines, 2) a 3'-8" variance from the minimum 15' clear vision requirement to allow a solid screened fence to be 11'-4" from the front driveway, and 3) a 7'-6" variance (with 7'-6" credit from the alley) from the minimum 20' setback requirement to allow a structure to be 5' from the rear property line, located at 911 King Avenue. Staff recommends approval for the Clear Vision and Rear Setback Variance. Staff recommends denial for the Fence Height Special Exception. (Council District 4) (Jacob Exler, Planner, (210) 207-5876, Jacob.Exler@sanantonio.gov, Development Services Department)

Staff stated 31 notices had been mailed out, 0 returned in favor, 1 returned in opposition, and no response from Quintana Community Neighborhood Association.

Kayla Cardenas, representative, stated she was not aware a permit was not pulled for the fence. She stated when she hired the contractor, she trusted he would follow thru with all that was needed for the job. She stated the purpose for this fence is for security and safety reasons.

No Public Comment

1st MOTION

A motion was made by Commissioner Ozuna. Regarding Case No. **BOA-22-10300256**, I move that the Board of Adjustment grant a request for a 2' special exception from the maximum 3' fence height, as described in Section 35-514, to allow a 5' solid screened privacy fence along the front yard, situated at 911 King Avenue, applicant being Jose Garcia, 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 additional fence height in the front is like others in the area. 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.*
The fence is unlikely to disturb the peace of the neighborhood and fits with the character of the neighborhood. The fence is solid screened and would serve the public welfare and convenience.
- C. *The neighboring property will not be substantially injured by such proposed use.*
The front fence will create enhanced security and privacy for the subject property, but it is unlikely to substantially injure any neighboring properties.
- D. *The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought.*
The additional height for front yard fence will not alter the essential character of the district as there were other similar fence heights in the area.
- E. *The special exception will not weaken the general purpose of the district, or the regulations herein established for the specific district.*
The current zoning permits the current use of a single-family home. The requested special exception will not weaken the general purpose of the district.

The motion was seconded Commissioner Manna.

Favor: Ozuna, Manna, Spielman, Menchaca, Lynde, Zuniga, Kaplan, Bragman, Oroian

Opposed: None

MOTION PASSES

2nd MOTION

A motion was made by Commissioner Ozuna. Regarding Case No. **BOA-22-10300256**, I move that the Board of Adjustment grant a request for 1) a 3'-8" variance from the minimum 15' clear vision requirement to allow a solid screened fence to be 11'-4" from the front curb, and 2) a 7'-6" variance (with 7'-6" credit from the alley) from the minimum 20' setback requirement to allow a structure to be 5' from the rear property line, situated at 911 King Ave, applicant being Jose Garcia, 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.*

These variance requests for the Clear Vision and Minimum Rear setback do not appear contrary to the public interest due to fence placements and rear setbacks in the area.

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

Requiring the fence to be moved back would require the applicant to move their fence line behind neighboring houses and enforcing the rear setback would require partial demolition of the house.

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

The recommended variances appear to observe the spirit of the ordinance. Neighboring houses have similar fence placements and rear setbacks.

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 evidence that the requested variance would 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 variances are sought is due to unique circumstances existing on the property. The requested clear vision and rear setback variances will ease the hardship by allowing the fence line to remain the same and for the house to stay intact that was built in 1952.

The motion was seconded Commissioner Manna.

Favor: Ozuna, Manna, Spielman, Menchaca, Lynde, Zuniga, Kaplan, Bragman, Oroian

Opposed: None

MOTION PASSES

Item #15

BOA-22-10300257: A request by Maria Gonzalez for 1) a 3'-7" variance from the minimum 5' side setback requirement, to allow a detached carport with overhang to be 1'-5" from the side property line, 2) a 5' variance from the minimum 10' front setback to allow a detached carport to have a 5' front setback, 3) a 3' special exception from the maximum 3' front yard fence height requirement to allow a 6' solid screened fence along the eastern and western property lines, 4) a 11' variance from the 15' minimum clear vision requirement to allow a solid screened privacy fence to be 4' from the front curb, 5) a variance from the permitted fence materials to allow corrugated metal fence in the side and rear yards, and 6) a 9" special exception from the maximum 6' side and rear yards fence height requirement to allow a 6'-9" fence in the side and rear yards, located at 338 Palm Drive. Staff recommends approval for the Clear Vision and Front Setback Variances. Staff recommends denial with an alternate recommendation for the Side Setback Variance. Staff recommends denial for the Fence Material Variance and the Fence Height Special Exception. (Council District 7) (Joseph Leos, Planner, (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department)

Staff stated 20 notices had been mailed out, 1 returned in favor, 0 returned in opposition, and no response from Donaldson Terrace Neighborhood Association.

Maria Bolnberger, applicant, stated this was constructed with the intent to allow for 2 vehicles.

Public Comment

Annabel Vargas, spoke in support.

Pauline Cantu, spoke in opposition.

MOTION

A motion was made by Commissioner Bragman. Regarding Case No. **BOA-22-10300257**, I move that the Board of Adjustment grant a request for 1) a 3'-7" variance from the minimum 5' side setback requirement to allow a detached carport with overhang to be 1'-5" from the side property line, 2) a 5' variance from the minimum 10' front setback to allow a detached carport to have a 5' front setback, 3) a 11' variance from the 15' minimum clear vision requirement to allow a solid screened privacy fence to be 4' from the front curb, and 4) a variance from the permitted fence materials to allow corrugated metal fence in the side and rear yards, situated at 338 Palm Drive, applicant being Maria Gonzalez, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

The public interest is defined as the general health, safety, and welfare of the public. The applicant is requesting a variance to the side and front setback in order to allow a detached carport with overhang to be to be 1'-5" from the side property line and 5' from the front property line. These distances provide adequate spacing between the carport, neighboring property, and front curb, which is not contrary to the public interest. Additionally, the applicant is requesting a variance from the permitted fence materials to allow corrugated metal fence in the side and rear yards. This is not contrary to the public interest as it is located behind the front façade of the home. Additionally, the applicant is requesting a variance to the front setback and clear vision. The distance is 5' from the front property line and 11'-6" from the front curb, which staff finds is a suitable amount of space.

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 carport being reduced to maintain and 5' side and 10' front setback, which would decrease the square footage of the carport. The additional variance request to allow corrugated metal would result in an unnecessary hardship, as the fence is already constructed. Further, altering the fence to meet the clear vision distance requirement of 15' would result in an unnecessary hardship by reducing the size of the front yard.

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 proposed side and front setback appear to observe the spirit of the ordinance as the current distance is a reasonable distance to the adjacent property and front property line. Further, the clear vision request to allow a fence to be 11'-6" from the front curb will observe the spirit of the ordinance by providing a safe distance between the two points, allowing vehicular traffic to not be obstructed.

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 carport will maintain 1' 5" from the side property line and 5' from the front property line, which is not likely to alter the essential character of the district or injure neighboring conforming properties. Additionally, the corrugated metal fence is located behind the front façade of the home which will not alter the essential character of the district. Furthermore, the clear vision request will not injure adjacent properties, as other front yard fences were observed in the immediate vicinity.

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 and is not merely financial.

The motion was seconded Commissioner Manna.

Commissioner Manna offered a friendly amendment to follow staff's recommendation for a 2' foot variance to allow a carport to be 3' from the side and strike the fence material being corrugated metal.

Commissioner Bragman accepted the friendly amendment.

Commission Kaplan offered a friendly amendment to remove the Clear Vision from this motion entirely.

Commissioner Bragman and Commissioner Manna accepted the friendly amendment.

Chair Oroian stated the motion before the commission is to allow a carport to be 3' from the side and 5' from the front.

Favor: Bragman, Manna, Spielman, Menchaca, Lynde, Zuniga, Kaplan, Ozuna, Oroian

Opposed: None

MOTION PASSES

2nd Motion

A motion was made by Commissioner Bragman. Regarding Case No. **BOA-22-10300257**, I move that the Board of Adjustment grant a request for a 1) 3' special exception from the maximum 3' front yard fence height requirement to allow a 6' solid screened fence along the eastern and western property lines and 2) a 9" special exception from the maximum 6' side and rear yards fence height requirement to allow a 6'-9" fence in the side and rear yards, situated at 338 Palm Drive, applicant being Maria 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 be in harmony with the spirit and purpose of the chapter.*

The UDC states the Board of Adjustment can grant a special exception for a fence height modification. Upon the site visit, a 6' solid screened privacy fence was observed in the front yard that deviates from the 3' maximum height requirement and a 6'-9" fence was observed in the side and rear yards that deviates from the 6' maximum height requirement. If granted, staff finds the request to be harmonious with the spirit and purpose of the ordinance.

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

In this case, these criteria are represented by fence heights to protect residential property owners while still promoting a sense of community. The fences in the front, side, and rear yards are exceeding the maximum height requirement and are solid screened. The fences at their current height appear to serve the public welfare and convenience.

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

The front, side, and rear yard fences would provide additional privacy for not only the subject property but the adjacent properties. They will not substantially injure neighboring property.

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.

Other fences were found in the community, which does not alter the essential character of the district.

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

The current zoning permits the current use of a single-family home. The requested special exception will not weaken the general purpose of the district.

The motion was seconded Commissioner Manna.

Favor: Bragman, Manna, Spielman, Menchaca, Lynde, Zuniga, Kaplan, Ozuna, Oroian

Opposed: None

MOTION PASSES

Item #16

BOA-22-10300258: A request by Morales Design Group for a 15' variance from the minimum 30' rear setback requirement to allow a structure to be 15' from the rear property line, located at 6690 Prue Road. Staff recommends approval. (Council District 7 and 8) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Chair Oroian stated this case should be continued and asked if Commissioner Manna was allowed to vote due to recusal. Staff affirmed that only a majority was required if Commissioner Manna abstained.

MOTION

A motion was made by Commissioner Ozuna and seconded by Commissioner Kaplan for a continuance until January 23, 2023.

All voted in affirmative.

Item #18

Approval of the minutes from the Zoning Board of Adjustment meeting on December 12, 2022.

MOTION

A motion was made by Commissioner Kaplan and seconded Commissioner Bragman for approval.

All voted in affirmative.

MOTION PASSES

Chair Oroian sworn Commissioner Menchaca in as a Board of Adjustment Commission Member.

Adjournment.

There being no further business, the meeting was adjourned at 6:30 pm.

OR

Vice-Chair

1-23-2023

Executive Secretary

DATE:

1-24-2023