

City of San Antonio



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

Monday, April 3, 2023

1:00 PM

1901 S. Alamo

1:02 PM – Call to Order

SeproTec translator were present.

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

Absent: None

**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.*

Item #8

BOA-23-10300049: A request by Killen, Griffin & Farrimond, PLLC for 1) a 15' variance from the maximum 35' Corridor sign height allowance, to allow a 60' tall single-tenant sign with a 10' elevated adjacent grade bonus and 2) a 140 square feet variance from the maximum 200 square footage allowance, to allow a single-tenant sign to be 340 square feet, generally located in the 26000 Block of Bulverde Road. Staff recommends Denial. (Council District 9) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Item #9

BOA-23-10300050: A request by Killen, Griffin & Farrimond, PLLC for 1) a 10' variance from the 50' maximum expressway sign height, to allow a 60' sign height and 2) a 90' variance from the minimum Right of Way distance of 100' to allow a sign within 10' of a Right of Way, generally located in the 10000 Block of South Zarzamora Street. Staff recommends Denial. (Council District 4) (Vincent Trevino, Senior Planner (210) 207-5501,

Vincent.Trevino@sanantonio.gov, Development Services Department)

Public Comment

Voicemail:

Kuling Wagasback spoke in opposition.

Ms. Kaplan made a **Motion** for **BOA-23-10300049** and **BOA-23-10300050** to be continued to April 17, 2023.

Second: Bragman

In favor: Spielman, Menchaca, Zuniga, Manna, Kaplan, Vasquez, Bragman, Ozuna, Oroian

Opposed: None

Motion Granted.

Item #5

(Continued from 3/20/2023) **BOA-23-10300044**: A request by Phoenix Vintage Opportunity Fund, LLC for 1) a 2,750 square feet variance from the minimum 6,000 square feet lot size requirement to allow a lot to be 3,250 square feet, and 2) a 5' variance from the minimum 20' rear setback requirement to allow a structure to be 15' from the rear property line, located at 315 Tilden Street. Staff recommends Denial for the Minimum Lot Size Variance. Staff recommends Approval for the Rear Setback Variance. (Council District 2) (Joseph Leos, Planner (210) 207-3074, joseph.leos@sanantonio.gov, Development Services Department)

Staff stated 29 notices were mailed to property owners, 7 returned in favor in addition to 1 outside 200', 3 returned in opposition, and Government Hill Alliance Neighborhood Association are in support.

Brad Warn, applicant, states he wants to build a two-story home that is complimentary to the neighborhood and seeks approval to do so.

No Public Comment

Ms. Bragman made a **Motion** for **BOA-23-10300044** for approval as presented.

Regarding Case No. **BOA-23-10300044**, I move that the Board of Adjustment grant request for 1) a 2,750 square feet variance from the minimum 6,000 square feet lot size requirement to allow a lot to be 3,250 square feet, and 2) a 5' variance from the minimum 20' rear setback requirement to allow a structure to be 15' from the rear property line, situated at 315 Tilden, applicant being Phoenix Vintage Opportunity Fund, 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.*

The public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by minimum lot sizes to preserve neighborhood character. Staff finds this request is not contrary, as the subject properties lot size deviation will not infringe on surrounding property owners. The applicant is also requesting a variance from the minimum rear setback requirement. In this case, the public interest is represented by restricted setbacks to provide suitable spacing between structures. Staff finds that this an allowable amount of spacing, as the structure will provide a suitable distance from neighboring properties.

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

A literal enforcement of the ordinance would result in the applicant re zoning the property to “R3” to allow for the development on a 3,250 square foot lot. This would result in an unnecessary hardship, as the large area rezoning is the special condition that made the subject property undevelopable without obtaining a variance. Additionally, a literal enforcement of the ordinance would result in the applicant altering the proposed structure to adhere by the rear setback requirement. This would result in an unnecessary hardship, as this would not allow for a sizeable single-family home.

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. If approved, the lot will not meet the minimum lot size in the assigned zoning district. Staff finds the spirit of the ordinance will be observed, as the current zoning allows for the planned development. Additionally, the proposed rear setback will adhere to the spirit of the ordinance and substantial justice will be done by allowing for suitable distances between structures and neighboring properties.

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 lot size granted would be 3,250 square feet within an “R-6” zoned district. Staff finds this request will not injure the appropriate use of adjacent conforming properties and alter the essential character of the district, as smaller lots were found in the immediate area. A 15’ rear setback for the structure does not appear to alter the essential character of the district nor will it injure adjacent properties.

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

Staff finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, such as the large area rezoning the property underwent. The circumstances do not appear to be merely financial.

Second: Kaplan

In favor: Spielman, Menchaca, Zuniga, Manna, Kaplan, Vasquez, Bragman, Ozuna, Oroian

Opposed: None

Motion Granted.

Item #6

(Continued from 3/20/2023) **BOA-23-10300045:** A request by Mario Esparza for a 1'-10" variance from the minimum 5' side setback requirement to allow an addition to be 3'-2" from the side setback property line, located at 1509 Burnet Street. Staff recommends Denial. (Council District 2) (Joseph Leos, Planner (210) 207-3074, joseph.leos@sanantonio.gov, Development Services Department)

Staff stated 40 notices were mailed to property owners, 1 returned in favor, 0 returned in opposition, and no response from Harvard Place Eastlawn Neighborhood Association.

Mario Esparza, applicant, states he hired professionals to retrieve a permit to build additional enclosed accessory structure; however, afterwards he realized a permit was not granted in the process and now seeks a permit approval.

No Public Comment

Mr. Ozuna made a **Motion** for **BOA-23-10300045** for approval as presented.

Regarding Case No. **BOA-23-10300045**, I move that the Board of Adjustment grant request for a 1'-10" variance from the minimum 5' side setback requirement to allow an addition to be 3'-2" from the side setback property line, situated at 1509 Burnet Street; applicant being Mario Esparza, 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. In this case, the public interest is represented by restricted setbacks to provide ample spacing between structures. The applicant is requesting a variance to the side setback to allow an addition to be 3'-2" from the side property line. Staff finds this distance is suitable, as it provides adequate distance from the neighbors shared property line. Storm water runoff does not impose onto the neighboring property, and side yard maintenance has sufficient access.

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 rebuilding the structure five feet from the side property line, which would result in an unnecessary hardship as construction has begun and altering the plans would be challenging for the applicant.

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 addition would be 3'-2" from the side property line. Allowing the variance to be granted allows for the structure to have sufficient space for storm water mitigation and run off, 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 structure will be 3'-2" from the side property line, which is not likely to alter the essential character of the district. Upon site visits, staff observed older homes with narrower setbacks. Additionally, the requested distance will not create issues that can affect the adjacent property when developed.

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 include the subject property being on located a narrower lot, which prevents the applicant from construction a sizeable addition. The request is not merely financial.

Second: Zuniga

In favor: Spielman, Menchaca, Zuniga, Manna, Vasquez, Bragman, Ozuna, Oroian

Opposed: Kaplan

Motion Fails.

Item #7

(Continued from 3/20/2023) **BOA-23-10300048**: A request by Ortiz McKnight, PLLC for a 30' variance from the maximum 90' front setback requirement for properties with 100' or more of frontage, to allow a 120' front setback, generally located in the 27000 Block of US Highway 281 North. Staff recommends Approval. (Council District 9) (Joseph Leos, Planner (210) 207-3074, joseph.leos@sanantonio.gov, Development Services Department)

Staff stated 5 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and the subject property is not located within boundaries of a neighborhood association.

James McKnight, representative, request a multifamily development, but has hardship with the electrical easement. He states he wants to provide some much-needed housing and diversity in the regions housing stock.

No Public Comment

Ms. Kaplan made a **Motion** for **BOA-23-10300048** for approval as presented.

Regarding Case No. **BOA-23-10300048**, I move that the Board of Adjustment grant request for a 30' variance from the maximum 90' front setback requirement for properties with 100' or more of frontage to allow a 120' front setback, situated generally in the 27000 Block of U.S. Highway 281 North, applicant being Ortiz McKnight, PLLC 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. In this case, the public interest is represented by maximum setbacks established to ensure uniform development within a community. Staff finds this request is not contrary to the public interest, as this will allow for the development of a multi-family residential community. Additionally, the structures will not impede the surrounding property owners, as they are abiding by all other setback requirements.

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

The special condition found on the subject property is the location of an existing 100' wide electrical easement located within the maximum building setback area. Staff finds that a literal enforcement of the ordinance will result in an unnecessary hardship, as the subject property will be undevelopable due to this development restriction.

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 request will observe the spirit of the ordinance and substantial justice will be done as this will allow for the prevention of construction on an electrical easement. Additionally, the observance is portrayed by the applicant meeting all other building requirements.

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

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

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

If granted, the setback will be increased to 120' instead of the required maximum 90'. The variance request will not substantially injure the appropriate use of adjacent conforming properties or alter the essential character of the district, as the property is abutting U.S. Highway 281 North to the east and Outside City Limits to the west and north.

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 location of an electrical easement being located within the maximum setback. The circumstances do not appear to be merely financial.

Second: Bragman

In favor: Spielman, Menchaca, Kaplan, Zuniga, Manna, Vasquez, Bragman, Ozuna, Oroian

Opposed: None

Motion Granted.

Item #3

(Continued from 3/6/2023) **BOA-23-10300030**: A request by Jane Wetzel for a variance from the fence materials to allow for a corrugated metal fence in the side and rear yards, located at 17103 Springhill Drive. Staff recommends Denial. (Council District 9) (Joseph Leos, Planner (210) 207-3074, joseph.leos@sanantonio.gov, Development Services Department)

Staff stated 21 notices were mailed to property owners, 8 returned in favor, in addition to 12 outside 200', 0 returned in opposition, and there is no registered neighborhood association.

Creamer Wetzel, applicant, states he gained more neighbors and associations in favor for his corrugated metal fence. He requests to keep his fence as it is with in mind that surrounding homes have similar fences.

No Public Comment

Ms. Bragman made a **Motion** for **BOA-23-10300030** for approval as presented.

Regarding Case No. **BOA-23-10300030**, I move that the Board of Adjustment grant request for a variance from the fence materials to allow for a corrugated metal fence in the side and rear yards., situated at 17103 Springhill Drive, applicant being Jane Wetzel, 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. In this case, the public interest is represented by restricted fence materials to provide uniformity within a community. The variance is not contrary to the public interest as the corrugated metal fencing is not conflicting with the immediate property owner fence materials.

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

A literal enforcement of the ordinance would result in an unnecessary hardship as the applicant would need to rebuild the already constructed fence.

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

The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. In this case, the spirit of the ordinance will be observed, as the fence is abiding by the UDC fence height requirements for solid screened fences in the side and rear yard.

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 fence will be allowed the prohibited fence material. If so, this will not injure the appropriate use of 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.

Second: Kaplan

In favor: Spielman, Menchaca, Kaplan, Zuniga, Manna, Vasquez, Bragman, Ozuna, Oroian

Opposed: None

Motion Granted.

Item #4

(Continued from 3/20/2023) **BOA-23-10300040**: A request by Filimon Hernandez for a 9'-11" variance from the minimum 10' front setback to allow a carport to be 1" from the property line, located at 8930 Fabens. Staff recommends Denial. (Council District 6) (Jacob Exler, Planner, (210) 207-5876, Jacob.Exler@sanantonio.gov, Development Services Department)

Staff stated 35 notices were mailed to property owners, 8 returned in favor, 2 returned in opposition, and there is no registered neighborhood association.

Filimon Hernandez, applicant, request continuance.

No Public Comment

Mr. Ozuna made a **Motion** for **BOA-23-10300040** to be continued to April 17, 2023.

Second: Kaplan

In favor: Spielman, Menchaca, Kaplan, Zuniga, Manna, Vasquez, Bragman, Ozuna, Oroian

Opposed: None

Motion Granted.

Item #10

BOA-23-10300051: A request by Isela Karina Garcia Hernandez for 1) a 2'-7" variance from the minimum 5' side setback requirement to allow an accessory dwelling unit with a 1' overhang to be 2'-5" from the side property lines and 2) a 5' variance from the minimum 15' clear vision requirement to allow a fence to be 10' from the front driveway, located at 3930 Spear Street. Staff recommends Denial of the Side Setback Variance. Staff recommends Approval of the Clear Vision Variance. (Council District 6) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 35 notices were mailed to property owners, 3 returned in favor, 0 returned in opposition, and no response from Los Jardines Neighborhood Association.

Isela Garcia, applicant, states she wants to build an accessory dwelling behind main structure to financially support her daughter. She requests permitting approval.

No Public Comment

Ms. Kaplan made a **Motion** for **BOA-23-10300051** for approval as amended.

Regarding Case No. **BOA-23-10300051**, I move that the Board of Adjustment grant a request for 1) a 2'-7" variance from the minimum 5' side setback requirement to allow an accessory dwelling unit with a 1' overhang to be 2'-5" from the side property lines and 2) a 5' variance from the minimum 15' clear vision requirement to allow a predominately open fence to be 10' from the front driveway, situated at 3930 Spear Street, applicant being Isela 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.*

The public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by restricted setbacks to provide ample spacing between structures. The applicant is requesting a variance to the side setback to allow detached accessory dwelling unit to be 2'-5" from the side property line. Staff finds that this distance is suitable as the detached accessory structure is existing; Additionally, the clear vision request is not contrary as the fence is predominately open.

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 relocating the structure five feet from the side property line, which would result in an unnecessary hardship; Additionally, the applicant would be required to alter the fence to meet the minimum 15' distance requirement as this would create an unnecessary hardship, as the yard maintains limited spacing.

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 accessory dwelling would be 2'-5" from the side property line. By allowing the variance for the side setback substantial justice will be done. Additionally, the clear vision will be observed, and substantial justice will be done with the requested variance as adequate sight distance is presented.

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 structure will be 2'-5" from the side property line, which likely will not alter the essential character of the district. Additionally, the fence distance will maintain 10' from the front driveway which will not likely alter the essential character of the district. Upon site visits, staff observed other front yard predominantly open fences 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 variances are sought are not due to unique circumstances existing on the property. The width of the lot will not allow an accessory dwelling to meet the side setbacks and create appropriate living space. The requested clear vision variance provides suitable space between the right of way and fence.

Second: Oroian

In favor: Spielman, Menchaca, Kaplan, Zuniga, Manna, Vasquez, Bragman, Ozuna, Oroian

Opposed: None

Motion Granted.

Item #11

BOA-23-10300052: A request by Ringtail Rhinos for 1) a 20' variance from the minimum 30' side setback requirement to allow a structure to have a 10' side setback, and 2) a 5' variance from the minimum 15' buffer requirement to allow reduced buffer of 10' in the northern property line, located at 1817 South Presa Street. Staff recommends Denial. (Council District 1) (Jacob Exler, Planner, (210) 207-5876, Jacob.Exler@sanantonio.gov, Development Services Department)

Staff stated 49 notices were mailed to property owners, 0 returned in favor, 1 returned in opposition, Lavaca Neighborhood Association in opposition via email letter and no response from Roosevelt Park Neighborhood Association.

Shawn Snider, applicant, states she wants to build a new structure where there is currently a lumber storage building. With the new structure he would like allow rentals, potentially create a space for artist to rent out. There is hardship with the distance with his potential structure and neighbors' privacy.

Public Comment

Ashley Caesars, owner of surrounding home, spoke in opposition but is willing to compromise on the distance of the structure with her property.

Reta Pearson, neighbor adjacent to structure, spoke in opposition for privacy and conservation concerns

Voicemails:

Joe Pearson, spoke in opposition.

Daniel/ Kit Diaz, spoke in opposition

Mr. Zuniga made a **Motion** for **BOA-23-10300052** to be continued on May 1, 2023.

Second: Menchaca

In favor: Spielman, Menchaca, Kaplan, Zuniga, Manna, Vasquez, Bragman, Ozuna, Oroian

Opposed: None

Motion Granted.

The meeting went to recess at 3:08 PM and attempted reconvened at 3:15 PM but lacked a quorum as Mr. Manna dropped from meeting via virtual connection at 3:12 PM and could not rejoin until 3:33 PM at which time a quorum was established and meeting reconvened.

Item #12

BOA-23-10300053: A request by David L. Hernandez for a 1,964 square foot variance from the minimum 5,000 square foot lot size to allow a 3,036 square foot lot, located at 121 Winslow

Street. Staff recommends Approval. (Council District 2) (Jacob Exler, Planner, (210) 207-5876, Jacob.Exler@sanantonio.gov, Development Services Department)

Staff stated 37 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and no response from Government Hill Alliance.

David Hernandez, representative, states his client is a first-time homebuyer, and begun the steps to retrieve a building permit to install a single-family residential home. The permit is partially approved and is pending on the approval of a variance request.

No Public Comment

Ms. Bragman made a **Motion** for **BOA-23-10300053** for approval as amended.

Regarding Case No. **BOA-23-10300053**, I move that the Board of Adjustment grant a request for a 1,964 square feet variance and below from the minimum 5,000 square feet lot size requirement to allow a 3,036 square foot lot, situated at 121 Winslow St, applicant being David Hernandez, 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 1,964 from the 5,000 minimum lot size requirements. The variance request does not appear to be contrary to the public interest as granting the variance would be in line with other lot sizes in the area.

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 rezone which 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.*

The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. The request appears to be in the spirit of the ordinance as the requirement is there to protect the neighborhood, and there are other single-family homes on similar lot sizes in the area.

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

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

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

Staff finds that the variance would not substantially injure the appropriate use of adjacent properties as many other lots do not meet the minimum lot size requirements.

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

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.

Second: Kaplan

In favor: Spielman, Menchaca, Kaplan, Zuniga, Manna, Vasquez, Bragman, Ozuna, Oroian

Opposed: None

Motion Granted.

Item #13

BOA-23-10300054: A request by Sawyer Dean, LLC for an 8 parking spaces variance from the minimum 16 required parking spaces to allow 8 parking spaces, located at 2520 McCullough Avenue. Staff recommends Denial. (Council District 1) (Jacob Exler, Planner, (210) 207-5876, Jacob.Exler@sanantonio.gov, Development Services Department)

Mirko Maravi, Principal Planner, states applicant is not present.

Chair Oroian recommends moving forward with next item.

Item #14

BOA-23-1300057: A request by Susanne Escobar for a 160 square foot variance from the maximum 800 square foot accessory dwelling to allow a detached accessory dwelling unit to have 960 square foot accessory dwelling, located at 5826 Shadow Way. Staff recommends Approval. (Council District 2) (Joseph Leos, Planner (210) 207-3074, joseph.leos@sanantonio.gov, Development Services Department)

Staff stated 29 notices were mailed to property owners, 0 returned in favor, 3 returned in opposition, and no response from Woodglenn Neighborhood Group.

Susanne Escobar, property owner, states she rents to active military and veterans to provide affordable living. She wants to build additional rooms but was unaware and forgot to seek permit approval.

No Public Comment

Chair Oroian informed applicant for **BOA-23-10300053** that this case is not suitable to proceed for a motion since applicant testimony found she will not reside at the home and therefore an accessory structure is not allowed.

No Motion was made.

Item #15

BOA-23-10300058: A request by Santiago Mendoza for a 9'-3" variance from the minimum 10' rear setback requirement to allow an addition with an 8" overhang to be 9" from the rear property line, located at 6630 Gallery Oak Street. Staff recommends Denial. (Council District 6) (Joseph Leos, Planner (210) 207-3074, joseph.leos@sanantonio.gov, Development Services Department)

Staff stated 36 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and there is no registered neighborhood association for subject property.

Santiago Mendoza, applicant, states he wants to build an additional accessory dwelling behind main structure he requests permitting approval.

Santiago Mendoza Jr., son to applicant, states his dad purchased the property time ago and constructed the home over the years. There was a complaint from the neighbors that struck the issue regarding permitting. He states his father has multiple family members living in the home, which is why the request for approval in adding enclosed accessory dwellings to the property.

No Public Comment

Ms. Kaplan made a **Motion** for **BOA-23-10300058** for approval as presented.

Regarding Case No. BOA-23-10300058, I move that the Board of Adjustment grant a request for a 9'-3" variance from the minimum 10' rear setback requirement to allow an addition with an 8" overhang to be 9" from the rear property line, situated at 6630 Gallery Oak, applicant being Santiago Mendoza, 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. In this case, the public interest is represented by minimum setbacks to provide adequate spacing between structures. The applicant is requesting a variance to allow an addition to be 9' from the rear property line. Staff finds this request is not contrary to the public interest, as this distance does provide suitable spacing between shared property lines, does not inflict on the neighboring property, and rear yard maintenance has access.

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 structure 10' feet from the rear property line, which would result in an unnecessary hardship as the structure is almost completed.

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 addition is currently 9' from the rear property line, with overhang included. Allowing this variance to be granted will observe the spirit of the ordinance, as the applicant is abiding by the side setback and height requirement for the base zoned district. The addition in its current placement allows for adequate drainage and space for routine maintenance.

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

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

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

If granted, the addition will not substantially injure the character of the district, as the current base zoning district can allow for this development.

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 buildable space in the rear yard. The circumstances do not appear to be merely financial.

Second: Ozuna

In favor: Ozuna

Opposed: Spielman, Menchaca, Kaplan, Zuniga, Manna, Vasquez, Bragman, Oroian

Motion Fails.

Item #16

BOA-23-10300059: A request by EDDASA, LLC for a 6' variance from the minimum 50' lot width to allow a lot with a 44' width, located at 5852 Mayo Drive. Staff recommends Approval. (Council District 6) (Joseph Leos, Planner (210) 207-3074, joseph.leos@sanantonio.gov, Development Services Department)

Staff stated 27 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and no registered neighborhood association for the subject property.

Juan Rodriguez, engineer, states he wants to start construction on subject property, but there is a deed to a person that is not accessible.

No Public Comment

Ms. Bragman made a **Motion** for **BOA-23-10300059** for approval as presented.

Regarding Case No. **BOA-23-10300059**, I move that the Board of Adjustment grant a request for a 6' variance from the minimum 50' lot width to allow a lot with a 44' width., situated at 5852 Mayo Drive, applicant being Eddasa, 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.*

The public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by minimum lot widths to prevent development jamming into narrow lots. The applicant is requesting a variance to allow a lot width to be 44'. Staff finds this request is not contrary to public interest, as the applicant is abiding by the setback requirements, which will not infringe onto the neighboring properties.

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

In this case, the special condition found on the subject property is the narrow lot width.

Without this variance, an unnecessary hardship will prevent the applicant from developing this lot. Furthermore, the lot will continue to be abandoned.

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

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

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

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

If granted, the lot will maintain 44' in width, which will not injure the use of adjacent conforming properties. Upon site visits, staff observed properties in the immediate vicinity being narrow in width and the subject property being located towards the end of the street. The request will not be out of character with or alter the essential character of the district.

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

Staff finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, such as the narrow width of the lot. The circumstances do not appear to be merely financial.

Second: Kaplan

In favor: Spielman, Menchaca, Kaplan, Zuniga, Manna, Vasquez, Bragman, Ozuna, Oroian

Opposed: None

Motion Granted.

Item #17

BOA-23-10300060: A request by Alberto Cubillos for 1) a 3'-4" variance from the minimum 5' side setback to allow a carport to have a 1'-8" side setback, 2) a 5'-11" variance from the minimum 10' front setback to allow a carport to have a 4'-1" front setback, 3) a variance from the fence materials to allow a corrugated metal fence along the western property line, 4) a 3' special

exception from the maximum 3' front yard fence height to allow a 6' solid screened fence along the western property line, 5) an 8" special exception from the maximum 5' front yard fence to allow a 5'-8" predominately open fence along the northern property line, and 6) a 7'-3" variance from the minimum 15' driveway clear vision to allow a fence to be 7'-9" from the front curb, located at 924 Iowa Street. Staff recommends Denial. (Council District 2) (Joseph Leos, Planner (210) 207-3074, joseph.leos@sanantonio.gov, Development Services Department)

Item #18

BOA-23-10300061: A request by Eliseo Garcia for a 4'-9" variance from the minimum 5' side setback to allow a carport to have a 3" side setback, located at 5903 Knoll Krest Street. Staff recommends Denial. (Council District 4) (Joseph Leos, Planner (210) 207-3074, joseph.leos@sanantonio.gov, Development Services Department)

Staff stated 27 notices were mailed to property owners, 5 returned in favor with 2 in favor outside the 200', 1 returned in opposition, and no registered neighborhood association for the subject property

No Public Comment

Chair Oroian made a **Motion** for **BOA-23-10300060** and **BOA-23-10300061** to be continued to April 17, 2023.

Second: Kaplan

In favor: Spielman, Menchaca, Kaplan, Zuniga, Manna, Vasquez, Bragman, Ozuna, Oroian

Opposed: None

Motion Granted.

Item #19 Approval of minutes from Zoning Board of Adjustments meeting on March 20, 2023

A **Motion** was made by Ms. Kaplan and seconded Chair Oroian for approval.

All voted affirmative.

Adjournment

There being no further business, the meeting was adjourned at 4:34 PM

DATE: 4-17-2023

DATE: April 18, 2023