

City of San Antonio



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

Monday, May 1, 2023

1:00 PM

1901 S. Alamo

1:10 PM – Call to Order

SeproTec translator were present.

Roll Call – Present: Spielman, Bragman, Menchaca, Caudill, Manna, Kaplan, Vasquez, Cruz
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.*

Chair Oroian administers Oath of Office to appointed commissioner, Vaughn Caudill.

Item #1

(Continued from BOA 4.3.23) **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) (Mirko Maravi, Principal Planner (210) 2070107, Mirko.Maravi@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 supports in a continuance, and Roosevelt Park Neighborhood Association (within 200 feet) did not respond.

Shawn Snider, applicant, states that he reached out to neighbors and neighborhood associations

and received feedback. However, he is still waiting on the majority to respond in support of proposed ideas for the desired property.

No Public Comment

Ms. Bragman made a **Motion** for **BOA-23-10300052** to be continued to May 15, 2023.

Second: Manna

Favor: Spielman, Bragman, Menchaca, Caudill, Manna, Kaplan, Vasquez, Cruz, Oroian

Opposed: None

Motion Granted.

Item #2

BOA-23-10300072: An appeal by Sandra Guerra of the Administrator's decision to revoke the shortterm rental permit, located at 410 E Rosewood Avenue. Staff recommends Denial. (Council District 1) (Joshua Orton AICP, Senior Planner (210) 2077945, Joshua.Orton@sanantonio.gov, Development Services Department)

Staff stated 19 notices were mailed to property owners, 1 returned in favor with additional 5 outside 200', 8 returned in opposition, and Monte Vista Historical Neighborhood Association is in opposition.

Staff states applicant is not present.

Public Comment

Cecilia Osherow, spoke in opposition.

Randal Osherow, spoke in opposition.

Patricia Wagner, spoke in opposition.

Charles Castro, spoke in opposition.

McLean Russell, spoke in opposition.

James Lawson, spoke in opposition.

Milton & Lisa Bech, spoke in opposition.

Jason Reyes, spoke in opposition.

Jacelyn Blanchard, spoke in opposition.

Rick Wilson, spoke in opposition.

Bianca Maldonado, spoke in opposition.

Vocemails:

Anabell Kaymen, spoke in opposition.

Ann Kingsler, spoke in opposition.

Ann Van Health, spoke in opposition.

Cecilia Osherow, spoke in opposition.

Chris Humpons, spoke in opposition.

Chris Shruggs, spoke in opposition.
Cliff Herbert, spoke in opposition.
George L. Nelson, spoke in opposition.
George Spencer, spoke in opposition.
Ira Hinton, spoke in opposition.
Judy Warren, spoke in opposition.
Julie Bryant, spoke in opposition.
Karen Hickson, spoke in opposition.
Kay Laird, spoke in opposition.
Kelly Russell, spoke in opposition.
Lise Beck, spoke in opposition.
Lisa Wiesler, spoke in opposition.
Lucy Frost, spoke in opposition.
Glen A. Boyd, spoke in opposition.
John & Lynn White, spoke in opposition.
Michael Mell, spoke in opposition.
Milton Beck, spoke in opposition.
Nancy Billups, spoke in opposition.
Pamela Etchison, spoke in opposition.
Patricia Nicholson, spoke in opposition.
Paul Kinnison, spoke in opposition.
Peter Fugil, spoke in opposition.
Rachel Tortillo, spoke in opposition.
Regina Campbell, spoke in opposition.
Robert Hobson, spoke in opposition.
Ryan Reed, spoke in opposition.
Sally Said, spoke in opposition.
Suzane Dubbous, spoke in opposition.
Trudy Kinninson, spoke in opposition.
Wendle Fuqua, spoke in opposition.
Yolanda Garcia, spoke in opposition.

Ms. Bragman made a **Motion** for **BOA-23-10300072** for approval as presented.

Regarding Case No. **BOA-22-10300072**, I move that the Board of Adjustment grant the appeal for the property, situated at 410 E Rosewood, applicant being Sandra Guerra, because the information provided by the applicant shows that City staff made an error in revoking the Short-Term Rental permit.

Second: Manna

Favor: None

Opposition: Spielman, Bragman, Menchaca, Caudill, Manna, Kaplan, Vasquez, Cruz, Oroian

Motion fails for appeal.

Item #3

BOA-23-10300073: A request by Esther Castillo for an 9'11" variance from the minimum 10' front setback requirement to allow a carport to be 1" from the front property line, located at 9614 Bratton Drive. Staff recommends Denial. (Council District 4) (Vincent Trevino, Senior Planner (210) 2075501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 42 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and there is no registered neighborhood association.

Esther Castillo, applicant, states she wants a carport spacious enough to fit her minivan. She requests the structure to protect and secure it from severe weather conditions.

No Public Comment

Mr. Manna made a **Motion** for **BOA-23-10300073** for approval as amended.

Regarding Case No. **BOA-23-10300073**, I move that the Board of Adjustment grant a request for an 8' variance from the minimum 10' front setback requirement to allow a carport to be 2' from the front property line, situated at 9614 Bratton Drive, applicant being Esther Castillo, 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 setback cannot be met due to the unique circumstances existing on the property, such as the size of the lot and location of the main structure and so 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 unnecessary hardship as the applicant could not build a carport conforming to the code.

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. Reducing the front setback would not injure neighboring properties due to unique circumstances existing on the property, such as the size of the lot and the homes being similar to townhome development.

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

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

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

The reduced front setback would not injure neighboring properties due to unique circumstances existing on the property, such as the size of the lot and the location of the main 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 reduced front setback variance is sought is due to unique circumstances existing on the property, such as the size and location of the main structure.

Second: Cruz

Mr. Menchaca made a friendly amendment to the motion to include a “3’ variance” from the front property line that was accepted by the maker and 2nd of the motion.

Favor: Spielman, Bragman, Menchaca, Caudill, Manna, Kaplan, Vasquez, Cruz, Oroian

Opposition: None

Motion Granted.

Item #4

BOA-23-10300075: A request by Octaviano Cardenas for a 700 square foot variance from the minimum 6,000 square foot lot size to allow development on a 5,300 square foot lot, located at 5730 Broken Lance Street. Staff recommends Approval. (Council District 4) (Vincent Trevino, Senior Planner (210) 2075501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 40 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and there are no registered neighborhood associations.

Belinda Cardenas, applicant, states she purchased this lot with the intension of a building a multifamily home. Applicant is requesting permitting approval.

No Public Comment

Ms. Bragman made a **Motion** for **BOA-23-10300075** for approval as presented.

Regarding Case No. **BOA-23-10300075**, I move that the Board of Adjustment grant a request for a 700 square foot variance from the minimum 6,000 square foot lot size requirement to allow a lot to be 5,300 square feet, situated at 5730 Broken Lance Street, applicant being Octaviano Cardenas, 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 700 square foot variance from the 6,000 square foot minimum lot size requirement. 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: Cruz

Favor: Spielman, Bragman, Menchaca, Caudill, Manna, Kaplan, Vasquez, Cruz, Oroian

Opposition: None

Motion Granted.

Item #5

BOA-23-10300076: A request by Leticia Robledo for 1) a 15'-10" variance from the minimum 20' rear setback requirement to allow a structure with a 1'-4" overhang to be 4'-2" from the rear property line, and 2) a 3'-8" variance from the minimum 15' clear vision requirement to allow a fence to be 11'-4" from the front driveway, located at 442 Arteago. Staff recommends Denial for the Rear Setback Variance. Staff recommends Approval for the Clear Vision Variance. (Council District 5) (Vincent Trevino, Senior Planner (210) 2075501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 40 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and there are no registered neighborhood associations.

Leticia Robledo, applicant, states she bought the house with no foundations and pulled a permit for a laundry room built behind the structure, and another permit for plumbing installations.

No Public Comment

Mr. Manna made a **Motion** for **BOA-23-10300076** for approval as amended.

Regarding Case No. **BOA-23-10300076**, I move that the Board of Adjustment grant a request for 1) a 10' variance from the minimum 20' rear setback requirement to allow a structure with a 1'-4" overhang to be 10' from the rear property line, and 2) a 3'-8" variance from the minimum 15' clear vision requirement to allow a fence to be 11'-4" from the front driveway, situated at 442 Arteago, applicant being Leticia Robledo, 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 proposed structure with a 1'-4" overhang would only be 10' from the rear property line is existing and would need to be moved to meet the rear setback requirements, which is not contrary to the public interest. Additionally, the applicant is requesting a 3'-8" variance from the minimum 15' clear vision requirement to allow a fence to be 11'-4" from the front driveway. In this case, the predominately open fence does not impede vehicles from entering or exiting the property. Staff finds that this request is not contrary as this distance does not proposes any safety issues.

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

A literal enforcement of the ordinance would result in unnecessary hardship as the applicant would be required to relocate the structure to meet the minimum rear setback requirement. Additionally, altering the fence to meet the minimum 15' distance requirement as this would create an unnecessary hardship, as the fence is existing.

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. Reducing the rear setback requirement would not injure neighboring properties as there are existing structures in the rear of other the neighboring properties. Additionally, the fence is currently 11'-4" from the front driveway. Staff finds the spirit of the ordinance 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.

The reduced rear setback would not injure neighboring properties as there is an existing structure in the rear of the neighboring property. Additionally, the distance will maintain 11'-4" 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 variance is sought do not appear to be merely financial.

Second: Bragman

Favor: Spielman, Bragman, Menchaca, Caudill, Manna, Kaplan, Vasquez, Cruz, Oroian

Opposition: None

Motion Granted.

The meeting went to recess at 3:11 PM and reconvened at 3:22 PM.

Item #7

BOA-23-10300080: A request by American GI Forum National Veterans Outreach Program, Inc. for 1) a 2' special exception from the maximum 5' front yard fence height requirement to allow a 7' predominantly open fence in the front yard, 2) a 1' special exception from the maximum 6' fence height requirement to allow a 7' predominantly open fence in the side and rear yards, and 3) a 9'9" variance from the minimum 15' clear vision requirement to allow a fence to be a 5'-3" from the front driveways, located at 202 and 206 San Pedro Avenue. Staff recommends Approval. (Council District 1) (Joseph Leos, Planner (210) 2073074, joseph.leos@sanantonio.gov, Development Services Department)

Staff stated 16 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, Downtown Neighborhood Association is in favor, and Tobin Hill Community Association are outside 200' and in favor of the request.

Schertz Dickerson, applicant, states during an inspection with Homeland Security he was advised to install a fence to for security purpose. Veterans are individuals that are more exposed to threatening circumstances and need to be protected. He states that local housing communities and businesses are in support of the structure.

No Public Comment

Mr. Manna made a **Motion** for **BOA-23-10300080** for a **special exemption** as presented.

Regarding Case No. **BOA-23-10300080**, I move that the Board of Adjustment grant request for 1) a 2' special exception from the maximum 5' front yard fence height requirement to allow a 7' predominantly open fence in the front yard, and 2) a 1' special exception from the maximum 6' fence height requirement to allow a predominantly 7' open fence in the side and rear yards, situated at 202 and 206 San Pedro Avenue, applicant being American GI Forum National Veterans Outreach Program Inc., because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

A. The special exception will be in harmony with the spirit and purpose of the chapter.

The UDC states the Board of Adjustment can grant a special exception for a fence height modification. The fence height being requested is predominantly open, located along the front, side, and rear property lines and does not exceed 7' in height. If granted, staff finds the request would be in harmony with the spirit and purpose of the ordinance.

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

In this case, these criteria are represented by fence heights to protect property owners while still promoting a sense of community. The proposed fence be requested will be located along the front, side, and rear property lines and is exceeding the maximum height requirement by 2' and 1'. The fence is predominantly open which still serves the public welfare and convenience.

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

The fence will create enhanced security and privacy for the subject and adjacent properties. Furthermore, Interstate Highway 35 is abutting the subject property, which the fence can act as a barrier. Additionally, other 7' predominantly open fences were seen in the immediate area.

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

The additional fence height in the front, side, and rear yards of the subject property does not appear to alter the location for which the special exception is sought, as the abutting base zoning districts are commercially zoned. Additionally, the property is zoned for more intense commercial uses that would be beneficial to add a 7' fence.

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

The purpose of the fencing standards is to protect the health, safety, and general welfare of the public. The special exception request is to allow a 7' tall fence in order to add security for the owner. Therefore, the requested special exception will not weaken the general purpose of the district.

Second: Kaplan

Favor: Spielman, Bragman, Menchaca, Caudill, Manna, Kaplan, Vasquez, Cruz, Oroian

Opposed: None

Motion Granted.

Mr. Manna made a **Motion** for **BOA-23-10300080** for **variance** approval as presented.

Regarding Case No. **BOA-23-10300080**, I move that the Board of Adjustment grant a request for a 9'-9" variance from the minimum 15' clear vision requirement to allow a predominantly open fence to be 5'-3" from the front driveways, situated at 202 and 206 San Pedro Avenue, applicant being American GI Forum National Veterans Outreach Program Inc., because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

The public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by minimum clear vision requirements to ensure the safety of vehicular traffic. The applicant is requesting a clear vision variance to allow a predominantly open fence to be 5'-3" from the two front driveways. Staff finds that this request will not be contrary to the public interest as this is an acceptable distance for sight.

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 plans to meet the minimum 15' clear vision requirement for the front and side driveways. This would result in an unnecessary hardship as the parking lot and office building of the subject property would need to decrease in size to abide by the current requirements.

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

The clear vision request to allow a predominantly open fence to be 5'-3" from the front driveways will observe the spirit of the ordinance by providing a safe distance between the two points, allowing vehicular traffic to not be obstructed. Additionally, the driveways are currently one-way, meaning no vehicles would be reversing onto San Pedro Avenue.

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

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

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

If granted, the clear vision distance will be 5'-3" from the front driveways, which is not likely to alter the essential character of the district as other fences are seen in the immediate area with similar clear vision distances.

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.

If granted, the clear vision distance will be 5'-3" from the front driveways, which is not likely to alter the essential character of the district as other fences were seen in the immediate area with similar clear vision distances.

Second: Bragman

Favor: Spielman, Bragman, Menchaca, Caudill, Manna, Kaplan, Vasquez, Cruz, Oroian

Opposed: None

Motion Granted.

Item #6

BOA-23-10300079: A request by American GI Forum National Veterans Outreach Program, Inc. for 1) a 2' special exception from the maximum 5' fence height requirement to allow a 7' predominantly open fence in the front yard, 2) a 1' special exception from the maximum 6' fence height requirement to allow a 7' predominantly open fence in the side and rear yards, and 3) a 6'-10" variance from the minimum 15' Clear Vision requirement to allow a fence to be 8'2" from the front driveways, located at 611 North Flores Street. Staff recommends Approval. (Council District 1) (Joseph Leos, Planner (210) 2073074, joseph.leos@sanantonio.gov, Development Services Department)

Staff stated 17 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and Downtown Neighborhood Association is in favor.

Schertz Dickerson, applicant, states during an inspection with Homeland Security he was advised to install a fence to for security purpose. Veterans are individuals that are more exposed to threatening circumstances and need to be protected. He states that local housing communities and businesses are in support of the structure.

No Public Comment

Ms. Bragman made a **Motion** for **BOA-23-10300079** for a **special exemption** as presented.

Regarding Case No. **BOA-23-10300079**, I move that the Board of Adjustment grant a request for 1) a 2' special exception from the maximum 5' fence height requirement to allow a 7' predominantly open fence in the front yard, 2) a 1' special exception from the maximum 6' fence

height requirement to allow a 7' predominantly open fence in the side and rear yards, situated at 611 North Flores Street, applicant being American GI Forum National Veterans Outreach Program Inc., because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

A. The special exception will be in harmony with the spirit and purpose of the chapter.

The UDC states the Board of Adjustment can grant a special exception for a fence height modification. The fence height being requested is predominantly open, located along the front, side, and rear property lines and does not exceed 7' in height. If granted, staff finds the request would be in harmony with the spirit and purpose of the ordinance as the fence is intended to protect the property.

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

In this case, these criteria are represented by fence heights to protect property owners while still promoting a sense of community. The proposed fence be requested will be located along the front, side, and rear property lines and is exceeding the maximum height requirement by 2' and 1'. The fence is predominantly open which still serves the public welfare and convenience.

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

The fence will create enhanced security and privacy for the subject and adjacent properties. Additionally, other fences exceeding the maximum height requirement were seen in the immediate area.

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

The additional fence height in the front, side, and rear yards of the subject property does not appear to alter the location for which the special exception is sought, as the abutting base zoning districts are commercially zoned. Additionally, the property is zoned for more intense commercial uses that would be beneficial to add a 7' fence.

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

The purpose of the fencing standards is to protect the health, safety, and general welfare of the public. The special exception request is to allow a 7' tall fence to add security for the owner. Therefore, the requested special exception will not weaken the general purpose of the district.

Second: Manna

Favor: Spielman, Bragman, Menchaca, Caudill, Manna, Kaplan, Vasquez, Cruz, Oroian

Opposed: None

Motion Granted.

Ms. Bragman made a **Motion** for **BOA-23-10300079** for a **variance** as amended.

Regarding Case No. **BOA-23-10300079**, I move that the Board of Adjustment grant a 6'-10" variance from the minimum 15' Clear Vision requirement to allow a predominantly open fence to be 8'-2" from the front driveways, situated at 611 North Flores Street, applicant being American GI Forum National Veterans Outreach Program Inc., because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

The public interest is defined as the general health, safety, and welfare of the public. The applicant is requesting a clear vision variance to allow a predominantly open fence to be 8'-2" from the two front driveways. Staff finds that this request will not be contrary to the public interest as this is an acceptable distance.

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 plans to meet the minimum 15' clear vision requirement for the front and side driveways. This would result in an unnecessary hardship as the parking lot of the subject property would decrease in size.

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

The clear vision request to allow a predominately open fence to be 8'-2" from the front driveways will observe the spirit of the ordinance by providing a safe distance between the two points, allowing vehicular traffic to not be obstructed. Additionally, the driveways are currently one-way, meaning no vehicles would be reversing onto North Flores Street.

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

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

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

If granted, the clear vision distance will be 8'-2" from the front driveways, which is not likely to alter the essential character of the district.

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

Staff finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, such as the location of the property being located within Downtown District. Development within this area causes for more dense development, resulting in the applicant to deviate from the minimum clear vision requirement to maximize parking. The circumstances do not appear to be merely financial.

Second: Manna

Favor: Spielman, Bragman, Menchaca, Caudill, Manna, Kaplan, Vasquez, Cruz, Oroian

Opposed: None

Motion Granted.

Item #8

BOA-23-10300082: A request by American GI Forum National Veterans Outreach Program, Inc. for 1) a 2' special exemption from the maximum 5' front yard fence height requirement to allow a 7' predominantly open fence in the front yard, 2) a 1' special exemption from the maximum 6' fence height to allow a 7' predominantly open fence in the side and rear yards, and 3) a 6'4" variance from the minimum 15' clear vision requirement to allow a fence to be 8'-8" from the front driveway, located at 722 Morales Street. Staff recommends Approval. (Council District 5) (Joseph Leos, Planner (210) 207-3074, joseph.leos@sanantonio.gov, Development Services Department)

Staff stated 8 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and no response from Gardendale Neighborhood Association.

Schertz Dickerson, applicant, states during an inspection with Homeland Security he was advised to install a fence to for security purpose. Veterans are individuals that are more exposed to threatening circumstances and need to be protected. He states there is an existing fence line on the property that needs a completed closure to eliminate vehicular traffic during later hours with controlled access.

No Public Comment

Mr. Manna made a **Motion** for **BOA-23-10300082** for a **special exemption** as presented.

Regarding Case No. **BOA-23-10300082**, I move that the Board of Adjustment grant a request for 1) a 2' special exception from the maximum 5' front yard fence height requirement to allow a 7' predominantly open fence in the front yard, 2) a 1' special exception from the maximum 6' fence height to allow a 7' predominantly open fence in the side and front yards, situated at 722 Morales Street, applicant being American GI Forum National Veterans Outreach Program Inc., because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

A. The special exception will be in harmony with the spirit and purpose of the chapter.

The UDC states the Board of Adjustment can grant a special exception for a fence height modification. The fence height being requested is predominantly open and does not exceed 7' in height. If granted, staff finds the request would be in harmony with the spirit and purpose of the ordinance.

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

In this case, these criteria are represented by fence heights to protect property owners while still promoting a sense of community. The proposed fence be requested will be located along the front, side, and rear property lines and is exceeding the maximum height requirement by 2' and 1'. The fence is predominantly open which still serves the public welfare and convenience.

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

The fence will create enhanced security and privacy for the subject and adjacent properties. Furthermore, a railroad is abutting the subject property, which the fence can act as a barrier. Additionally, other fences exceeding the minimum height requirement were seen in the immediate area.

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

The additional fence height in the front, side, and rear yards of the subject property does not appear to alter the location for which the special exception is sought, as the abutting base zoning districts are commercially zoned. Additionally, the property is zoned for more intense commercial uses that would be beneficial to add a 7' fence.

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

The purpose of the fencing standards is to protect the health, safety, and general welfare of the public. The special exception request is to allow a 7' tall fence to add security for the owner. Therefore, the requested special exception will not weaken the general purpose of the district.

Second: Cruz

Favor: Spielman, Bragman, Menchaca, Caudill, Manna, Kaplan, Vasquez, Cruz, Oroian

Opposed: None

Motion Granted.

Mr. Manna made a **Motion** for **BOA-23-10300082** for a **variance** as amended.

Regarding Case No. **BOA-23-10300082**, I move that the Board of Adjustment grant a request for a 6'-4" variance from the minimum 15' clear vision requirement to allow a predominately open fence to be 8'-8" from the front driveway, situated at 722 Morales Street, applicant being American GI Forum National Veterans Outreach Program Inc., because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

The public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by minimum clear vision requirements to ensure the safety of vehicular traffic. The applicant is requesting a clear vision variance to allow a predominately open fence to be 8'-8" from the front driveway. Staff finds that this request will not be contrary to the public interest as this is an acceptable distance for sight.

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 plans to meet the minimum 15' clear vision requirement for the front and side driveways. This would result in an unnecessary hardship as the parking lot of the subject property would need to decrease in size to abide by the current requirements.

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

The clear vision request to allow a predominately open fence to be 8'-8" from the front driveway will observe the spirit of the ordinance by providing a safe distance between the two points, allowing vehicular traffic to not be obstructed. Additionally, no vehicles will be reversing onto Morales Street.

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

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

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

If granted, the clear vision distance will be 8'-8" from the front driveway, which is not likely to alter the essential character of the district as other fences were seen in the immediate area with similar clear vision distances.

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 the parking lot and structures on the subject property preventing the applicant from abiding by the clear vision requirement. The circumstances do not appear to be merely financial.

Second: Kaplan

Favor: Spielman, Bragman, Menchaca, Caudill, Manna, Kaplan, Vasquez, Cruz, Oroian

Opposed: None

Motion Granted.

Item #9

BOA-23-10300083: A request by Brenda Borrego for a 2' variance from the minimum 5' side setback to allow a structure with a 3' side setback, located at 234 Pharis Street. Staff recommends Denial. (Council District 6) (Joseph Leos, Planner (210) 2073074, joseph.leos@sanantonio.gov, Development Services Department)

Staff stated 33 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and property is not in boundaries with neighborhood associations.

Brenda Borrego, applicant, states she wants a carport to have security and enhance the appearance of her home. Applicant amended to include gutters.

No Public Comment

Chair Oroian made a **Motion** for **BOA-23-10300083** for approval as presented.

Regarding Case No. **BOA-23-10300083**, I move that the Board of Adjustment grant a request for a 2' variance from the minimum 5' side setback requirement commencing 39' from the front property line and extending 30' to the rear of the property allow a structure with gutters to be 3' from the side property line, situated at 234 Pharis Street, applicant being Brenda Borrego, 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 spacing between property line and structures. The applicant is requesting a variance to the side setback to allow a structure to be 3' from the side property line. Staff finds this distance is suitable, as it does not impose on the public interest of the adjacent neighbor. Staff found that water runoff will not impose, and risk of fire spread is not a threat.

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 with gutters 5' from the side property line which would result in an unnecessary hardship as it will prevent the applicant from constructing a sizeable structure to fit their vehicle.

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 structure would be 3' from the side property line, which will observe the spirit of the ordinance because it would provide adequate distance from the neighboring property and is abiding by all other building requirements.

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

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

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

If granted, the structure will be 3' from the side property line. 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 side yard and overall narrowness of the subject property. The circumstances appear to be the results of general conditions in the district in which the property is located.

Second: Kaplan

Favor: Spielman, Bragman, Menchaca, Caudill, Manna, Kaplan, Vasquez, Cruz, Oroian

Opposed: None

Motion Granted.

Item #10

BOA-23-10300084: A request by Mullaney Contracting and Consulting for a 1) a 1' special exception from the maximum 3' solid fence height requirement to allow a 4' solid fence along the front property line, 2) a 1' special exception from the maximum 5' fence height requirement to allow a 6' fence along the front property line, and 3) a 1' special exception from the maximum 5' fence height requirement to allow a 6' predominately open fence along the front yard, eastern and western property lines, located at 163 Rittiman Road. Staff recommends Approval. (Council District 2) Joseph Leos, Planner (210) 2073074, joseph.leos@sanantonio.gov, Development Service Department)

Staff stated 10 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and property is not in boundaries with neighborhood associations.

Charlie Mullaney, representative, states the request is to build a commercial garage for storage after there is security fencing.

No Public Comment

Ms. Bragman made a **Motion** for **BOA-23-10300084** for approval as presented.

Regarding Case No. **BOA-23-10300084**, I move that the Board of Adjustment grant request for 1) a 1' special exception from the maximum 3' solid fence height requirement to allow a 4' solid fence along the front property line, 2) a 1' special exception from the maximum 5' fence height requirement to allow a predominately open 6' fence along the front property line, and 3) a 1' special exception from the maximum 5' fence height requirement to allow a 6' predominately open fence along the front yard, eastern and western property lines, situated at 163 Rittiman Road, applicant being Mullaney Contracting and Consulting, 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. The fence height along the front property line being requested is combined, with the first 4' solid and screened and the preceding is 2' predominately open. Additionally, the applicant is requested a 6' predominately open fence along the western and eastern property lines, passed the front façade of the structure. The additional fence height is intended to provide safety and security of the applicant's property. If granted, the request will be in harmony with the spirit and purpose of the chapter.

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

In this case, these criteria are represented by fence heights to protect commercial property owners while still promoting a sense of community. The additional fence height will provide security and privacy for the subject and adjacent properties. This is not contrary to the public interest.

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

The fence will create enhanced security and privacy for the subject and adjacent properties. Furthermore, the fencing will not violate the Clear Vision standards for the subject and adjacent 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 fence height in the front yard of the subject property does not appear to alter the location for which the special exception is sought, as the abutting base zoning districts are commercially zoned. Additionally, the property is zoned for more intense commercial uses that would be beneficial to exceed minimum fence heights.

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

The property is located within the “C-2” Commercial District and permits the current use. The requested special exception will not weaken the general purpose of the district.

Second: Cruz

Favor: Spielman, Bragman, Menchaca, Caudill, Manna, Kaplan, Vasquez, Cruz, Oroian

Opposed: None

Motion Granted.

Item #11 Approval of minutes from Zoning Board of Adjustments meeting on April 17, 2023

A **Motion** was made by Mr. Manna and seconded Ms. Kaplan for approval.

All voted affirmative.

Adjournment

There being no further business, the meeting was adjourned at 4:27 PM

DATE: May 16, 2023