

City of San Antonio



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

Monday, February 5, 2024

1:00 PM

1901 S. Alamo

1:01 PM – Call to Order

Worldwide Interpreter presented.

Roll Call – Present: Brereton, Kaplan, Dean, Zuniga, Manna, Vasquez (Via TEAMS), Ozuna, Benavides, Cruz, Oroian, Riahi (see page, 1)

Absent: Bragman

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

A moment of silence was observed for Mr. Zuniga, our former Zoning Board of Adjustment Commissioner who recently passed.

Item #1

Appointment of one (1) alternate member of the Board of Adjustment to the Planning Commission Technical Advisory Committee for a two-year term to expire on April 26, 2025.

Chair Oroian nominated Commissioner Cruz.

The motion was seconded by Commissioner Benavides.

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

MOTION PASSES

Commissioner Riahi joined the meeting at 1:05 pm

Item #2

BOA-23-10300346: A request by Lauren Frey for a Special Exception to allow one (1) additional Type 2 Short Term Rental permit on the blockface, per UDC Section 35-374.01(c), located at 226 Rainbow Drive. Staff recommends Denial. (Council District 10) (Juan Alvarez, Planner (210) 207-7232, Juan.Alvarez2@SanAntonio.gov, Development Services Department).

Staff stated 31 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, no response from Oak Park Northwood Neighborhood Association.

Lauren Frey, applicant, stated the developed area is primarily rental units. Her addition of short-term rental would not take away from the character of the neighborhood.

No Public Comment**Motion**

A motion was made by Commissioner Kaplan. Regarding Case No. BOA-23-10300346, I move that the Board of Adjustment grant a special exception to allow for (1) Type 2 short term rental unit, situated at 226 Rainbow Drive, applicant being Lauren Frey, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

A. *The special exception will not materially endanger the public health or safety.*

The Board finds that the request to operate an additional short term rental is unlikely to materially endanger the public health, safety, or welfare. There is nothing obvious that would distinguish a short term rental versus a long term rental at this facility.

B. *The special exception does not create a public nuisance.*

There does not appear to be a reason to believe a public nuisance would be created if an additional short term rental permit was approved.

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

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

D. *Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary faculties have been or are being provided.*

The subject property provides off-street parking and appears to have adequate utilities, access, and open space.

E. The applicant or owner for the special exception does not have any previously revoked short term rental licenses, confirmed citations, or adjudicated offenses convictions for violations of Chapter 16, Article XXII of the City Code within one year prior to the date of the application.

The applicant does not have any history of revocation, citations, or convictions for violations of Chapter 16.

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

The subject property is located in close proximity to other residential. With the property owner providing off-street parking and maintaining it from the neighboring property, the special exception does not appear to alter the essential character of the district and location in which the property is seeking the special exception.

The motion was seconded by Commissioner Benavides.

Favor: None

Opposed: Brereton, Kaplan, Dean, Ybanez, Manna, Vasquez, Ozuna, Benavides, Cruz, Oroian, Riahi

MOTION FAILS

Item #3

BOA-24-10300003: A request by Justine Sanchez for a Special Exception to allow one (1) additional Type 2 Short Term Rental permit on the blockface, per UDC Section 35-374.01(c), located at 1717 West Summit Ave. Staff recommends Denial. (Council District 7) (Juan Alvarez, Planner (210) 207-7232, Juan.Alvarez2@SanAntonio.gov, Development Services Department)

Staff stated 31 notices were mailed to property owners, 1 returned in favor, 1 returned in opposition, Jefferson Neighborhood Association and Woodlawn Lake Neighborhood Association are in opposition.

Justine Sanchez, applicant, stated she signed a 1-year lease for the property without knowing there was an existing STR on the block phase. She has maintained the property herself and is involved in the entirety of the stay. She has maintained contact with both side neighbors and if needed, they can always reach her on her personal number.

No Public Comment

Motion

A motion was made by Commissioner Ozuna to continue case **BOA-24-10300003** and to February 19, 2024 and was seconded by Commissioner Cruz.

Favor: Brereton, Kaplan, Manna, Vasquez, Ozuna, Benavides, Riahi, Cruz, Oroian,

Opposed: Ybanez, Dean

MOTION PASSES

Commissioner Dean made a motion to reconsider and was seconded by Commissioner Kaplan.

A verbal was vote was taken.

MOTION FAILS

Chair Oroian requested Public Comment for Case BOA 24-10300003 that was not heard

In Person

Sally Avila, member of Jefferson Homeowners Association, spoke in opposition.

Voicemails

Ted Guerra, President of Jefferson Neighborhood Association spoke in opposition.

Jay Morales, President of Woodlawn Neighborhood Association spoke in opposition.

Commissioner Ybanez made a motion to reconsider BOA 24-10300003 and was seconded by Commissioner Dean.

Favor: Ybanez, Dean, Brereton, Kaplan, Manna, Vasquez, Ozuna, Benavides, Riahi, Cruz, Oroian

Opposed: None

Chair Oroian stated motion passed for reconsideration.

Rebuttal

Ms. Sanchez sated there were no parties, no police reports, lawncare is maintained, and has been working with professional companies on long term stays.

Motion

A motion was made by Commissioner Benavides to continue case **BOA-24-10300003** to February 19, 2024, and was seconded by Commissioner Ozuna.

Favor: Brereton, Vasquez, Ozuna, Benavides, Riahi, Cruz, Oroian

Opposed: Kaplan, Ybanez, Dean, Manna,

MOTION PASSES

Joseph Harney, City Attorney, clarified that a simple majority is needed for a continuance.

Item #4

BOA-23-10300286: A request by Skyway Towers, LLC for a 197'-6" variance from the minimum 200' distance to allow a 2'-6" distance from a Wireless Communication System

Tower to a Residential Zoned District, located at 5506 South Flores Street. Staff recommends Denial. (Council District 3) (Mirko Maravi, Principal Planner, (210) 207-0107, mirko.maravi@sanantonio.gov, Development Services Department)

Staff stated 32 notices were mailed to property owners, 9 returned in favor, 0 returned in opposition, and no response from St. Leo's Neighborhood (within 200 feet).

Representative, Skyway Towers, sated he has been looking for a commercial property for 2 years to install a Verizon Tower. The area would provide the last amount of disability and minimize the number of towers going up. The current property has 7 large trees acting as a buffer and a fence for privacy.

Public Comment

Beverly Teel, President of the Church Council, stated she is in favor.

A motion was made by Commissioner Benavides. Regarding Case No. BOA-24-10300286, I move that the Board of Adjustment grant a request for a 197'-6" variance from the minimum 200' distance to allow a 2'-6" distance from a Wireless Communication System Tower to a Residential Zoned District, situated at 5506 South Flores Street, applicant being Skyway Towers, 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. The proposed communication tower will have significant space from established residential uses which would not be contrary to the public interest.

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

A literal enforcement of the ordinance would result in unnecessary hardship as the property outside the commercially zoned portion is not for residential use.

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 distance requirement would not injure neighboring properties, there is sufficient space within the subject property prior to any developed residential 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.*

The reduced distance would not alter the essential character of the district as it is located on a Secondary Arterial Type B Road.

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

The distance variance is sought due to unique circumstances existing on the property as the lot was recently partially rezoned too commercial.

The motion was seconded by Commissioner Ozuna.

Favor: Brereton, Kaplan, Riahi, Manna, Bragman, Ozuna, Benavides, Cruz, Vasquez, Oroian
Opposed: Manna

MOTION PASSES

Item #5

BOA-24-10300001: A request by Andrew Hunt for 1) a 10' variance from the minimum 20' rear setback variance to allow a structure to be 10' from the rear property line, and 2) a request for a 3' special exception from the maximum 5' fence height to allow an 8' predominantly open fence in the front yard, located at 6119 Town Wood Street. Staff recommends Approval. (Council District 6) (Melanie Clark, Planner, (210) 207-6311, melanie.clark@sanantonio.gov, Development Services Department)

Staff stated 28 notices were mailed to property owners, 1 returned in favor, 0 returned in opposition, no response provided by the Thunderbird Hills Neighborhood Association (within 200 feet).

Andrew Hunt, the applicant, stated there was an addition and a setback is needed to meet requirements. In terms of fence, the applicant did not realize a variance was required for the fence. The applicant stated there is a 3' dip.

Public Comment

Voicemails

Stephan Raveneau, spoke in favor.

Motion

A motion was made by Commissioner Kaplan. Regarding Case No. BOA-24-10300001, I move that the Board of Adjustment grant a request for 10' variance from the minimum 20' rear setback to allow a 10 rear setback, situated at 6119 Townwood Street, applicant being Andrew Hunt 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.*

Due to the area in which the lot is located as well as the distance from the neighboring lot to the rear, a 10' rear setback will not affect the general health, safety, and welfare of the neighbor or surrounding properties.

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

A literal enforcement of the ordinance would prevent the applicant from completing the extension if their residential building on the property.

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 granting of this variance will observe the spirit of the ordinance, as the extension will be abiding all other setback requirements.

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

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

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

The rear setback variance distance will allow the residential building to be 10' from the rear setback. This will not injure the appropriate use of adjacent properties and will not alter the essential character of the district.

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

Staff finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, such as the size and orientation of the lot. This circumstance does not appear to be merely financial.

The motion was seconded by Commissioner Benavides.

Favor: Kaplan, Riahi, Manna, Ybanez, Ozuna, Benavides, Brereton, Dean Cruz, Vasquez, Oroian
Opposed: None

MOTION PASSES

MOTION FOR SPECIAL EXEMPTION

A motion made by Commissioner Kaplan. Regarding Case No. BOA-24-10300001, I move that the Board of Adjustment grant a request for a 3' special exception from the maximum 5' fence height to allow a 8' fence in the front yard, situated at 6119 Townwood Street, applicant being Andrew Hunt, 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 8' predominately open for the front yard. If granted, staff finds that the request would be in harmony with the spirit and purpose of the ordinance, as the fence does not impede corner lot clear vision requirements and is similar in stature to fences in the neighborhood.

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 fence does not appear to interfere with the public welfare and convenience, as there are fences of similar design in the immediate surrounding area.

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

The special exception will not injure the neighboring properties as it is proportionate fence height and composition along the front yard and aligns with the height of the front freestanding wall/courtyard per Sec 35-514 (a)(3) has a permitted height of 8'.

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

The additional fence height in the front property line will not alter the location for which the special exception is sought, as similar styled fences were observed to be in the immediate surrounding area.

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

The requested special exception will not weaken the general purpose of the district as the fence is predominately open as to not impede clear vision requirements and placement of the fence is well within the minimum front setback requirements per Sec 35-514.

The motion was seconded by Commissioner Manna.

Favor: Kaplan, Riahi, Manna, Ybanez, Ozuna, Benavides, Brereton, Dean Cruz, Vasquez, Oroian
Opposed: None

MOTION PASSES

Item #6

Approval of the minutes from the Board of Adjustment meeting on January 22, 2024.

A motion was made by Commissioner Kaplan and seconded Commissioner Manna for approval of the January 5, 2024 minutes as amended.

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

MOTION PASSES

Director's Report – nothing to report.

Announcement by Chair – Chair Oroian reminded Commissioners to file their yearly mandatory Financial Discloser Reports.

Adjournment

There being no further business, the meeting was adjourned at 2:51 PM.

APPROVED BY: _____ or _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary