

City of San Antonio



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

Monday, February 19, 2024

1:00 PM

1901 S. Alamo

1:02 PM – Call to Order

Worldwide Interpreter presented.

Roll Call – Present: Brereton, Kaplan, Dean, Manna, Bragman (Via TEAMS), Ozuna, Benavides, Bonillas, Ybanez, Oroian, Cruz (see page, 1)

Absent: None

Postponed

Item #1 BOA-24-10300316- located at 10601 and 10515 Nacogdoches Road.

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

Commissioner Cruz joined the meeting at 1:06 pm

Item #2

BOA-23-10300263: (Continued from BOA January 22, 2024) A request by Eluterio Tenorio for Appealing a Certificate of Appropriateness, located at 620 South Presa Street. Staff recommends Denial. (Council District 1) (Mirko Maravi, Principal Planner (210) 207-0107, Mirko.Maravi@sanantonio.gov, Development Services Department)

Staff stated 30 notices were mailed to property owners, 8 returned in favor; 3 received in favor outside 200', 2 returned in opposition, Lavaca Neighborhood Association is opposed.

Public Comment

In Person

Melissa Stendahl, President of Lavaca Neighborhood Association, spoke in favor.

Bryan Murphy, representing Lavaca Neighborhood Association, clarified the tenant history for the building. The building was vacant for 2 years and was previously a vegan restaurant.

MiaMarie Pugh, Brown & McDonald, applicant's representative, requested a continuance to March 18th.

Motion

A motion was made by Commissioner Ozuna to continue case **BOA-23-10300263** to March 18, 2024, and was seconded by Commissioner Kaplan.

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

MOTION PASSES

Item #4

BOA-24-10300005: A request by Jonathan Clarke for a Special Exception to allow one (1) additional Type 2 Short Term Rental permit on the block face, per UDC Section 35-374.01(c), located at 825 E Park Ave. Staff recommends Denial. (Council District 1) (Juan Alvarez, Planner (210) 207-7232, Juan.Alvarez2@SanAntonio.gov, Development Services Department)

Staff stated 28 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, no response from Sojo Crossing Homeowner Association and Tobin Hill Community Northwood Neighborhood Association is in opposition.

Ryan Reed, attorney for the applicant, requested a continuance to March 4, 2024.

No Public Comment

Motion

A motion was made by Commissioner Kaplan to continue case **BOA-23-10300005** to March 4, 2024, and was seconded by Commissioner Cruz.

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

MOTION PASSES

Item #3

BOA-24-10300003: (Continued from February 5, 2024) A request by Justine Sanchez for a Special Exception to allow one (1) additional Type 2 Short Term Rental permit on the block face, per UDC Section 35-374.01(c), located at 1717 W 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, 2 returned in favor, 1 returned in opposition, Jefferson Neighborhood Association and Woodlawn Lake Neighborhood Association are in opposition.

Justine Sanchez, applicant, stated she contacted the neighborhood associations in an effort to reach a resolution. However, she understood if her case was not approved.

Public Comment

In person

Sally Avila, spoke in opposition.

Voicemail

Bianca Maldonado, spoke in opposition.

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

Rebuttal

Ms. Sanchez stated there were no parties and no police reports presently. Cameras on the property were highly monitored to ensure no parties or excessive noise would occur.

Motion

A motion was made by Commissioner Manna. Regarding Case No. BOA-24-10300003, I move that the Board of Adjustment grant a special exception to allow for (1) Type 2 Short Term Rental unit, situated at 1717 West Summit Ave, applicant being Justine Sanchez, 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 Kaplan.

Favor: Benavides.

Opposed: Brereton, Kapan, Ybanez, Dean, Cruz, Manna, Bragman, Ozuna, Bonillas, Oroian.

MOTION FAILS

Item #5

BOA-24-10300006: A request by Chris Coker for a Special Exception to allow one (1) additional Type 2 Short Term Rental permit on the block face, per UDC Section 35-374.01(c), located at 209 Sadie Street. Staff recommends Denial. (Council District 1) (Juan Alvarez, Planner (210) 207-7232, Juan.Alvarez2@SanAntonio.gov, Development Services Department)

Staff stated 30 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, no response provided by Lavaca Neighborhood Association.

Ashley Farrimond, Killen Griffen & Farrimond, applicant's representative, stated the permit was removed due to HOT Taxes not being paid. Since revocation, the HOT Taxes are current, and account is not delinquent.

Chris Coker, applicant, came to the podium with a timeline of how the events occurred. Additionally, he stated that this was the first time he started operating a Short-Term Rental and was under the impression taxes were automatically deducted. He did confirm that he is still operating the Short-Term Rental Unit.

Public Comment

Marcy Newman, spoke in opposition.

Chair Oroian, asked if there was more information to sub section H.

Monique Kormann, Policy Administrator, stated the section after H focused on non-distressed structures.

Melissa Ramirez, Assistant Director, stated there are current violations and a court hearing is scheduled for March.

Logan Sparrow, Development Services Administrator, stated the Type 2 Short Term Rental is still in operation since the revocation of the permit.

Motion

A motion was made by Commissioner Benavides. Regarding Case No. BOA-24-10300006, I move that the Board of Adjustment grant a special exception to allow for (1) Type 2 Short Term Rental unit, situated at 209 Sadie Street, applicant being Chris Coker, 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 Ozuna.

Favor: Brereton, Bragman, Ozuna, Oroian.

Opposed: Kaplan, Ybanez, Dean, Cruz, Benavides, Manna, Bonillas.

MOTION FAILS

Item #6

BOA-24-10300009: A request by Genesis Miranda for a corrugated metal fence along the side, front, and rear property lines, located at 2235 Frio City Road. Staff recommends Denial. (Council District 5) (Richard Bautista-Vazquez, Planner (210)-207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 4 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, no response provided by Quintana Community Neighborhood Association.

Genesis Miranda, applicant, stated she submitted a permit application and had the fence constructed to match the rest of Frio City Road. Ms. Miranda amended the application to provide a cap on the corrugated metal fence.

Rachael Parish, Development Services Engineer, stated an application was submitted January 9, 2024, and the permit still has not been issued. The permit is under technical review.

No Public Comment

Motion

A motion was made by Commissioner Kaplan. Regarding Case No. BOA-24-10300009, I move that the Board of Adjustment grant a request for a variance to allow a corrugated metal fence, with cover cap on, along the side, front, and rear property lines, situated at 2235 Frio City Road, applicant being Genesis Miranda, 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.*

In this case, the public interest is represented by the required materials for constructing a fence. The request is not contrary to the public interest as various similar styled fences are in the area.

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

Staff find special conditions on the subject property that would permit an exception to the approved fence materials. A literal enforcement of the ordinance would result in unnecessary hardship as such as demolishing the corrugated metal 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. The fence does appear to observe the spirit of the ordinance as there are similar fences 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 the granting of the variances will not substantially injure the appropriate use of adjacent conforming properties or alter the essential character of the district in which the property is located.

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 being on a busy road.

The motion was seconded by Commissioner Manna.

Favor: Brereton, Bragman, Ozuna, Oroian, Kaplan, Ybanez, Cruz, Benavides, Manna, Bonillas.

Opposed: Dean.

MOTION PASSES**Item #7**

BOA-24-10300004: A request by Travis Elseth for a 15' variance from the minimum 20' exterior side yard setback (PUD) variance to allow structures to be 5' from the side setback, located at 1103 Crenshaw Way; 1102 Art Wall Way; 13510 Furyk Drive; 13203 Furyk Drive. Staff recommends Approval. (Council District 3) (Richard Bautista-Vazquez, Planner (210)-207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 35 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, no registered Neighborhood Association.

Travis Elseth, the applicant, was seeking a 15' variance for the platted lots.

No Public Comment**Motion**

A motion was made by Chair Oroian. Regarding Case No. BOA-24-10300004, I move that the Board of Adjustment grant a request for a 15' variance from the maximum 20' exterior side yard (PUD) variance to allow a structure to be 5' from the side setback, situated at 13510 Furyk Drive; a request for a 6' variance from the 20' exterior side PUD set back at 1102 Art Wall Way and 1103 Crenshaw Way to allow a structure to be 14' from the side setback; 10' variance from the 20' side yard setback PUD to allow a structure to be 10' away located at 13203 Furyk Drive, applicant being Travis Elseth, 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.*

In this case, the public interest is represented by restricted setbacks to provide ample spacing between structures.

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 20' from the side property line, which results in unnecessary hardship reducing the structure footprint.

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

The structures will vary between 5' and 14' from the side property line, which will observe the spirit of the ordinance.

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

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

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

Upon site visits, staff observed similar developed homes and structures with reduced side setbacks down to 5', which do not alter the essential character of the district or impose on the fabric of the community.

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 structure being in the perimeter of the PUD (Planned Unit Development).

Mirko Maravi, Principal Planner, requested clarification on 1103 Crenshaw Way and 1102 Art Wall.

Chair Oroian, clarified.

The motion was seconded by Commissioner Kaplan.

Favor: Brereton, Bragman, Ozuna, Dean, Oroian, Kaplan, Ybanez, Cruz, Benavides, Manna, Bonillas.

Opposed: None.

MOTION PASSES

Commission went into recess at 3:11 pm and reconvened at 3:20 pm

Item #8

BOA-24-10300008: A request by Paloma Blanca Investments LLC for a 7' variance from the minimum 50' lot width requirement to allow a lot to be 43' wide, located at 624 West Harding Boulevard. Staff recommends Approval. (Council District 3) (Melanie Clark, Planner, (210) 207-5550, melanie.clark@sanantonio.gov, Development Services Department)

Staff stated 19 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, no registered Neighborhood Association.

Manuel Colungna, Paloma Blanca Investments, applicant, stated he is requesting a variance to build a 1600 square feet home. The home will have a driveway.

No Public Comment

Motion

A motion was made by Chair Manna. Regarding Case No. BOA-24-10300008, I move that the Board of Adjustment grant a request for a 7' variance from the minimum 50' lot width requirement to allow a lot to be 43' wide, situated at 624 West Harding Boulevard, applicant being Paloma Blanca Investments LLC because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

Due to the size of the property, a 7' variance to allow a lot of width of 43' 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 development of single-family dwelling 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 new build 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 width variance will allow a single-family dwelling to be constructed within the boundaries of a 43' lot. This will not injure the appropriate use of adjacent properties and will not alter the essential character of the district as similar lot widths can be seen throughout the neighborhood.

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

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.

Chair Oroian provided clarification and stated that the Planning Commission cannot waive zoning requirements.

Joseph Harney, City Attorney, stated that the Planning Commission does not have the authority to approve.

The motion was seconded by Commissioner Cruz.

Favor: Brereton, Ozuna, Dean, Oroian, Kaplan, Ybanez, Cruz, Benavides, Manna, Bonillas.

Opposed: None.

Abstain: Bragman (connectivity issues).

MOTION PASSES

Item #9

Approval of the minutes from the Board of Adjustment meeting on February 5, 2024.

A motion was made by Commissioner Brereton and seconded Commissioner Cruz for approval of the February 5, 2024, minutes as amended.

A verbal 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 Disclosure Reports.

Joseph Harney, City Attorney, stated District 6 appointment will occur at the end of February and District 2 appointment will occur the first week of March.

Adjournment

There being no further business, the meeting was adjourned at 3:20 PM.

APPROVED BY: _____ or _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary