

City of San Antonio



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

Monday, November 6, 2023

1:00 PM

1901 S. Alamo

1:00 PM – Call to Order

Worldwide Interpreter presented.

Roll Call – Present: Brereton, Kaplan, Riahi, Cruz, Manna, Benavides, Bragman, Ozuna, Brown, Zuniga (see page 4), Dean (see page 16), Oroian

Absent: None

Item #9

BOA-23-10300283: A request by Creo Architects for a 17’-8” variance from the minimum 30’ rear setback to allow a 12’-4” rear setback, located at 150 West Sunset Road. Staff recommends approval. (Council District 1) (Joseph Leos, Planner (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department).

Staff stated 13 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and no registered neighborhood association within 200’ radius of subject property.

Patrick Christensen, representation HEB Foundation, stated this building is a counseling center and the purpose of this request is to expand their facility to build small offices for privacy purposes.

No Public Comment

Motion

A motion was made by Commissioner Ozuna. Regarding Case No. **BOA-23-10300283**, I move that the Board of Adjustment grant a request for a 17'-8" variance from the minimum 30' rear setback to allow a structure to be 12'-4" from the rear property line, situated at 150 West Sunset Road, applicant being Creo Architects, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

1. *The variance is not contrary to the public interest.*
Staff finds variance is not contrary to the public interest. The request is an allowable distance from the rear property line and neighboring property.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
The special condition found is the length and width of the property. A literal enforcement of the ordinance would result in the applicant abiding by the minimum 30' rear setback requirement. This would result in an unnecessary hardship, as the additional square footage of the building would be drastically reduced.
3. *By granting the variance, the spirit of the ordinance will be observed, and substantial justice will be done.*
The intent of the 30' rear setback requirement is to provide for consistent development patterns and establish space for routine maintenance. A 17'-8" variance to allow a structure to be 12'-4" from the rear property line would adhere to the spirit of the ordinance and substantial justice will be served.
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.*
This request 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. Upon site visits, staff observed the block was primarily composed of commercial and multi-family uses. The request is not out of character.

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 length and width of the property. Without the variance, the applicant would lose square footage for the proposed office use.

The motion was seconded by Commissioner Kaplan.

Favor: Ozuna, Kaplan, Brereton, Riahi, Cruz, Manna, Bragman, Brown, Oroian

Opposed: None

Abstain: (due to digital technical issues): Benavides

MOTION PASSES

Commission went into recess at 1:15 pm and reconvened at 1:20 pm.

Item #1

BOA-23-10300263 (Continued from 10/23/2023): A request by Eluterio Tenorio for appealing a Certificate of Appropriateness, located at 620 South Presa Street. Staff recommends denial. (Council District 1) (Joseph Leos, Planner (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department).

Rachel Rettaliata, Historic Preservation Office, presented item and recommended denial. The property owner did not comply with the guidelines which caused the Certificate of Appropriateness to be denied. The applicant repaired the existing stucco cladding with stucco that matches the existing which does not comply with Historic Design guidelines.

Caroline McDonald, representative, stated her client presented renovation plans to HDRC (Historic Design Review Commission) and was granted a Certificate of Appropriateness. Her client moved forward with renovations. A stop work order was issued because her client used foam insulation. Because rain was in the forecast and because there was a 40% loss of the building due to previous structural issues which caused the new property owner to refurbish the foundation and roof, the property owner continued to work even after the stop work order was issued. His intent was to prevent mold and further damages to exposed stucco. The foam insulation is not visible on the exterior of the building and removal of foam insulation would compromise the structure. It is needed for weatherization, sanitation from rodents and bugs which is greatly needed in historic buildings. Her client has worked diligently to preserve and improved the structure. They have visited with surrounding neighbors who have expressed their support as well as Lavaca Neighborhood Association. She stated HDRC's scope is to review projects related to exterior changes to historic properties.

Pablo Rios, property owner, stated he provided HDRC with photos and architectural renderings of what was being added as improvements. As previously stated, the building was already damaged due to previous structural issues so help preserve the structure, they shaved stucco down to original brick or concrete block without damage. They proceeded to place a specific seal coating to prevent water and air penetration prior to putting thermafoam, thermabond, fiber glass reinforcement which would help preserve and prevent damages to the structure.

Rebuttal

Rachel Rettaliata, Historic Preservation Office, stated upon site visit they presumed moisture barrier and the foam had been installed over the existing stucco. When foam is installed to the exterior, it causes additional depth. When depth is increased to the exterior, it increases window and door opening depth as well which changes the character of the structure and visually impacts the structure.

Commissioner Zuniga joined via digital (Microsoft Teams) at 1:22 pm.

El Tenorio, architect, would like to speak to the cracks and different materials. He stated one of the solutions the foam installation helped with was the different thickness of materials. Previous owners initially added layers, which added thickness and unevenness; when stripping down to the original brick, the foam helped even the walls to lessen the offset.

Rachel Parrish, Development Services Engineer, stated if the work area includes that particular space, they would have to now bring it up to code which includes the insulation but if it is outside that work space they would not need to. As for the historic designation, there is some limited provision in the existing building code that says certain historical structures do not have to comply but generally that's on a national historic registry.

Chair Oroian tabled the item to later on the agenda so all interested parties may further discuss.

Item #2

BOA-23-10300254: A request by Sign Remedy for a 10' variance from the maximum 60' sign height, as described in Section 28-45, to allow a 70' sign, located at 5552 NW Loop 410. Staff recommends denial. (Council District 7) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department).

Staff stated 2 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and no registered neighborhood association within 200' radius of subject property.

Stephanie Stewart, applicant, stated their sign is 60 feet overall in height on Loop 410. She stated they are asking for 10 feet because they are at the highest point of the overpass. If they comply with the sign code, their sign would not be seen. There is an existing old structure that overhangs into the electrical and sidewalk easement that is refaced however to not disrupt any OSHA (Occupational Safety and Health Administration) regulations, they would request to move the sign back 10 to 15 feet on the side where the sign would be installed.

Arturo Elizondo, Chief Sign Inspector, stated they understand their hardship because of high point overpass of Loop 410 and would support their request.

No Public Comment

Motion

A motion was made by Commissioner Ozuna. Regarding Case No. **BOA-23-10300254**, I move that the Board of Adjustment grant a request for a 10' variance from the maximum 60' sign height to allow a 70' sign, situated at 5552 NW Loop 410, applicant being Sign Remedy, 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 because strict enforcement of this article prohibits any reasonable opportunity to provide adequate signs on the site, considering the unique features of a site such as its dimensions, landscaping, or topography; or*
2. *A denial of the variance would probably cause a cessation of legitimate, longstanding active commercial use of the property.*

The property currently qualifies for a sign 60' in height/375 square feet for a single-tenant sign. The applicant is requesting a variance to erect a new sign at 70' in height in which case the existing sign would be removed if variance is approved.

After seeking one or more of the findings set forth in subparagraphs (1) and (2), the Board finds that:

- A. Granting the variance does not provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.

The proposed sign does not appear to provide a special privilege as there are other signs of this height or square footage in the surrounding area.

- B. Granting the variance will not have a substantially adverse impact on neighboring properties.

The proposed variance will not have an adverse impact on neighboring properties.

- C. Granting the variance will not substantially conflict with the stated purposes of this article. **A sign exceeding the 60' in height requirement will not substantially conflict with the sign regulations standards.**

The motion was seconded by Commissioner Manna.

Favor: Ozuna, Brereton, Riahi, Zuniga, Benavides, Bragman, Brown, Oroian

Opposed: Manna, Kaplan, Cruz

MOTION FAILS

Item #3

BOA-23-10300278: A request by Ronald M. Carrillo for a 214 square foot variance from the allowable 369 square feet to allow a wall façade sign to be 583 square feet, located at 1302 Camaron Street. Staff recommends denial. (Council District 1) (Joseph Leos, Planner (210) 207- 3074, Joseph.Leos@sanantonio.gov, Development Services Department).

Staff stated 17 notices were mailed to property owners, 1 returned in favor, 0 returned in opposition, and no registered neighborhood association within 200' radius of subject property.

Arturo Elizondo, Chief Sign Inspector, stated they calculated the square feet allowance is the height of the buildings by the length which is 18 x 82 that is 14,760 square feet which allows for 25% which would be 369 square feet. The graphic is 11 x 53 which exceeds the 25%.

Ronald Carrillo, owner, stated his tenant painted their sign/logo onto the building without knowing of city codes, permits and regulations. The material used is graffiti proof which would be difficult to alter if needed to.

No Public Comment**Motion**

A motion was made by Commissioner Kaplan. Regarding Case No. **BOA-23-10300278**, I move that the Board of Adjustment grant a request for a 214 square foot variance from the allowable 369 square feet to allow a wall façade sign to be 583 square feet., situated at 1302 Camaron Street, applicant being Ronald M. Carillo, 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 necessary because strict enforcement of this article prohibits any reasonable opportunity to provide adequate signs on the site, considering the unique features of a site such as its dimensions, landscaping, or topography; or*
2. *A denial of the variance would probably cause a cessation of legitimate, longstanding active commercial use of the property.*

The property currently qualifies for a wall façade sign of 369 square feet. The current square footage will not cause a cessation of legitimate, longstanding active commercial use of the property. The variance is necessary in this case.

After seeking one or more of the findings set forth in subparagraphs (1) and (2), the Board finds that:

- A. Granting the variance does not provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.

The proposed wall façade appears to not provide a special privilege as there are other signs of this square footage in the surrounding area.

- B. Granting the variance will not have a substantially adverse impact on neighboring properties.
The proposed variance will not have an adverse impact on neighboring properties as there are other signs of this square footage and appear similar to the sign regulation standards.
- C. Granting the variance will not substantially conflict with the stated purposes of this article.
A sign exceeding the 369 square feet will not substantially conflict with the sign regulations standards.

The motion was seconded by Commissioner Manna.

Favor: Kaplan, Riahi, Cruz, Zuniga, Benavides, Bragman, Ozuna, Brown, Oroian

Opposed: Manna, Brereton,

MOTION PASSES

Chair Oroian stated Item #1 will be brought back from the table for consideration.

Item #1

BOA-23-10300263

Rachel Parrish, Development Services Engineer, stated she would clarify as she was mistaken, regarding the Federal Registration. If it is on the Federal State or Local Registry it does come under the Historic portion of the existing building code however it allows for the use of historic materials, but it does not require it.

Caroline McDonald, representative, stated she would like to request a continuance until the December 18, 2023 agenda to further discuss with city staff to address all issues to reach as solution.

Motion

A motion was made by Commissioner Kaplan to continue case BOA-23-10300263 until December 18, 2023 and was seconded by Commissioner Bragman.

A verbal vote was taken and all voted in affirmative.

MOTION PASSES

Item #4

BOA-23-10300273 (Continued from 10/23/2023): A request by The Trinidad Group for 1) a 3' special exception from the 5' maximum fence height requirement to allow an 8' predominately open fence in the front yard, and 2) a 9'-11" variance from the minimum 10' side setback requirement to allow a barbed wire fence to be 1" from the side property line, located at 1039 West Hilderbrand Avenue. Staff recommends approval for the fence height special exception. Staff recommends denial for the side (Barbed Wire) setback. (Council District 1) (Joseph Leos, Planner (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department).

Staff stated 26 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and no responses from Central nor Beacon Hill Neighborhood Associations.

Rafael Trinidad, applicant, stated they operate a crime and trauma scene cleaning business. They are a 24-hour response service business. As they receive calls for services, they have a 1-hour response time. Due to the neighbor's heavy activity, he is requesting this variance to provide safety for his employees.

No Public Comment

1st Motion

A motion was made by Commissioner Kaplan. Regarding Case No. **BOA-23-10300273**, I move that the Board of Adjustment grant a request for a 3' special exception from the 5' maximum fence height requirement to allow an 8' predominately open fence in the front yard, situated at 1039 West Hildebrand Avenue, applicant being Audrey Trinidad, 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 request is in harmony with the spirit of the chapter, as the applicant is merely seeking to establish security within their property.
- 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' privacy and security while still promoting a sense of community. An 8' tall fence along the front portion of the yard does not pose any adverse effects to the public welfare.
- C. *The neighboring property will not be substantially injured by such proposed use.*
The front yard fence will create enhanced privacy for the subject property and is unlikely to substantially injure any neighboring properties. Upon site visits, staff observed other predominately open front yard fences exceeding the height requirement.
- 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 request for the additional fence height is due to privacy and security because of the high volume of foot traffic along West Hildebrand Avenue.
- E. *The special exception will not weaken the general purpose of the district, or the regulations herein established for the specific district.*
The current zoning of "C-2" Commercial District permits the current use of commercial uses. The requested special exception will not weaken or detract from the general purpose of the district.

The motion was seconded by Commissioner Manna.

Favor: Kaplan, Manna, Brereton, Riahi, Cruz, Zuniga, Benavides, Bragman, Ozuna, Brown, Oroian

Opposed: None

MOTION PASSES

2nd Motion

A motion was made by Commissioner Kaplan. Regarding Case No. **BOA-23-10300273**, I move that the Board of Adjustment grant a request for a 9'-11" variance from the minimum 10' side setback requirement to allow a barbed wire fence to be 1" from the side property line, situated at 1039 West Hildebrand, applicant being Audrey Trinidad, 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 request appears to not be contrary to the public interest, as it will not inflict significant physical injury to the residentially zoned district abutting the subject property.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
A literal enforcement of the ordinance will result in an unnecessary hardship, as there is not enough spacing within the property for relocation. If abiding by the ordinance, the parking lot will be dramatically reduced.
3. *By granting the variance, the spirit of the ordinance will be observed, and substantial justice will be done.*
The requested side setback variance is to allow a fence with barbed wire to be closer to the side property line. The request will observe the spirit of the ordinance, as it will not inflict significant injury to the public.
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 granting of the variance will not injure the appropriate use of adjacent conforming properties. The abutting property is single-family residential, which if granted, will not impose negatively onto this use.

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 side setback variance sought is due to unique circumstances existing on the property. The property does not appear to be big enough to allow for the fence to be pushed back 10' from the side property line to adhere to the spirit of the ordinance.

The motion was seconded by Commissioner Manna.

Commissioner Manna made a friendly amendment to limit the barbwire setback on the east side of the fence which was accepted by Commissioner Kaplan.

Favor: Kaplan, Manna, Brereton, Riahi, Cruz, Zuniga, Benavides, Bragman, Ozuna, Brown, Oroian

Opposed: None

MOTION PASSES

Commission went into recess at 3:34 pm and reconvened at 3:48 pm.

Item #5

BOA-23-10300265: A request by Francisca Alcorta for 1) a 4'-11" variance from the minimum 5' side setback to allow a carport with a 1" side setback, 2) a 9'-11" variance from the minimum 10' front setback to allow a 1" front setback, and 3) a 5' variance from the minimum 15' clear vision to allow a 10' clear vision, located at 126 Bluffside Drive. Staff recommends approval for the Clear Vision Variance. Staff recommends denial for the Side and Front Setback Variances. (Council District 4) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@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 within 200' radius of subject property.

Francisca Alcorta, owner, stated she was not aware permits were needed until she was visited by city staff. She pulled permits and continued with the construction. When visited by inspectors again, she was directed to remove the overhang of the roof that went into the neighbor's property, and she complied. She stated the existing carport was right on the property line and this new construction was cut back about 3 feet.

No Public Comment

Motion

A motion was made by Commissioner Manna. Regarding Case No. **BOA-23-10300265**, I move that the Board of Adjustment grant a request for 1) a 4'-11' variance from the minimum 5' side setback to allow a carport with a 1" side setback with gutters, 2) a 5' variance from the minimum 10' front setback to allow a 5' front setback, and 3) a 5' variance from the minimum 15' clear vision to allow a 10' clear vision, situated at 126 Bluffside Drive, applicant being Francisca Alcorta, 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 represented by setback requirements to prevent water runoff and adequate spacing between properties and right of way. The applicant is requesting a variance to the front setback and side to allow a detached carport to be 1" with gutters from the side property line and a 10' driveway clear vision. This appears to be adequate as the gutters may mitigate the water preventing water runoff and suitable clear vision will remain.

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 adjusting the location of their carport in which may cause a demolition of the carport and fence to conform.

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

The granting of the front and side setback and clear vision variances may observe the spirit of the ordinance, as there are similar designed carports and fences located in the surrounding 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 carport and fence at its proposed positions will not alter the essential character of the district and not deter any uses from adjacent conforming properties.

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

Staff finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, such as limited spacing on the property. Upon staff site visit it was observed that there were similar carports and fences in the area.

The motion was seconded by Commissioner Ozuna.

Favor: Manna, Ozuna, Brereton, Kaplan, Riahi, Cruz, Zuniga, Benavides, Bragman, Brown, Oroian

Opposed: None

MOTION PASSES

Item #6

BOA-23-10300270: A request by Juan Alonso for 1) a 4' special exception from the maximum 3' fence height to allow a 7' privacy fence in the front yard, and 2) a 19' variance from the minimum 20' from the back of the property line to allow a garage entry to be 1' from the front setback, located at 5578 Mount McKinley Drive. Staff recommends denial. (Council District 6) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department).

Vincent Trevino, Senior Planner, stated the neighborhood association asked for a continuance so they may meet with the applicant to further discuss.

Juan Alonso, applicant, stated he is agreeable to the continuance further address any concerns.

Motion

A motion was made by Commissioner Kaplan to continue case BOA-23-10300270 until December 4, 2023 and was seconded by Commissioner Cruz.

A verbal vote was taken and all voted in affirmative.

MOTION PASSES

Item #7

BOA-23-10300281: A request by Irvin Rigal for a variance to allow two separate structures on an "RM-4" that is less than one-third of an acre, located at 2109 Virginia Boulevard. Staff recommends denial. (Council District 2) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department).

Staff stated 34 notices were mailed to property owners, 2 returned in favor, 2 returned in opposition, and no response from Harlandale-McCollum Neighborhood Association.

Irvin Rigal, applicant, stated he is proposing to build duplexes on the subject property. The surrounding homes are duplexes and he does not feel this proposal would impact the neighborhood.

Motion

A motion was made by Commissioner Bragman. Regarding Case No. **BOA-23-10300281**, I move that the Board of Adjustment grant a request for a variance to allow two separate structures on an "RM-4" that is less than one-third of an acre, situated at 2109 Virginia Boulevard, applicant being Irvin Rigal, 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 defined by density requirements to prevent overcrowding on smaller lots. Staff finds this request is not contrary to the public interest as the applicant is abiding by all other setback requirements, which will not infringe on surrounding property owners.
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 alter their plans to abide by the recently changed UDC requirement.
3. *By granting the variance, the spirit of the ordinance will be observed, and substantial justice will be done.*
Staff finds the spirit will be observed, as the applicant will be abiding by all other building requirements and has not begun construction. Additionally, this will allow for infill development of a vacant lot.
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 granting of this variance will not injure the appropriate use of adjacent conforming properties, as this type of development is not out of character with the surrounding zoning districts.*

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 lot being less than one-third of acre. The circumstances do not appear to be merely financial.

Public Comment

Voicemail

Rene Sanchez, spoke in opposition.

The motion was seconded by Commissioner Manna.

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

Opposed: Brown

MOTION PASSES

Item #8

BOA-23-10300282: A request by Arnulfo Montalvo for 1) a variance to allow two separate structures on an "RM-4" that is less than one-third of an acre, 2) a 4-parking space variance from the minimum 6 to allow 2 parking spaces, 3) a 10" variance from the minimum 5' side setback requirement to allow a structure to be 4'-2" from both side property lines, and 4) a variance from the maximum 50% impervious cover requirement to allow the front yard to exceed the maximum 50% impervious cover, located at 516 Aransas Avenue. Staff recommends approval for the Side Setback Variance. Staff recommends denial for the Separate Structure, Parking and Impervious Cover Variances. (Council District 2) (Joseph Leos, Planner (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department).

Staff stated 26 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and Denver Heights Neighborhood Association is in opposition.

Christina Alaniz, representative, stated her client is proposing to develop 2 duplexes which would be 4 units. They submitted for building permits prior to the latest updates to the UDC. She stated they are in the platting stages. They have also walked the neighborhood and gained support but were unaware of the opposition from the neighborhood association.

No Public Comment

Motion

A motion was made by Commissioner Kaplan. Regarding Case No. **BOA-23-10300282**, I move that the Board of Adjustment grant a request for 1) a variance to allow two separate structures on an "RM-4" that is less than one-third of an acre, 2) a 4-parking space variance from the minimum 6 to allow 2 parking spaces, and 3) a 10" variance from the minimum 5' side setback requirement to allow a structure to be 4'-2" from both side property lines, situated at 516 Aransas Avenue, applicant being Arnulfo Montalvo, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

These variances are not contrary to the public interest, as separate structures within an "RM-4" District less than 1/3 of an acre will not cause overcrowding on the lot, not abiding by the minimum parking requirements will not interfere with traffic. The side setback variance will not be contrary to the public interest as it will leave over 4' on each side, which will not deter from the welfare of the public.

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

In this case, the special condition found within the subject property is the lot size. Without the requested variances, an unnecessary hardship will arise as the amount of buildable area within the subject property is limited. A literal enforcement of the ordinance would be challenging to attain due to the size of the lot.

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

If granted, the structure will maintain the deviated building requirements. The spirit of the ordinance will be observed in this case, as the structure will be 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 not be contained into a single structure, have four parking spaces, will maintain a setback of over 4'. The granting of these variances will not injure the appropriate use of adjacent conforming properties.

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

Staff finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, such as the length and width of the property. Without the variance, the applicant would lose square footage for the proposed use.

The motion was seconded by Commissioner Manna.

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

Opposed: Zuniga, Brown

MOTION PASSES

Commissioner Brown left meeting at 4:57 pm

Commissioner Dean joined meeting via digital (Microsoft Teams) at 4:57 pm

Item #10

BOA-23-10300279: A request by Joe Rios for 1) a request for a 10' variance from the minimum 15' Landscape Buffer to allow a 5' Landscape Buffer on the western property line and 2) a 5' variance from the required minimum 10' side setback to allow a structure with a 5' side setback, located at 5707 S Zarzamora Street. Staff recommends denial with an alternate recommendation. (Council District 5) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department).

Staff stated 30 notices were mailed to property owners, 0 returned in favor, 1 returned in opposition, and no response from Tierra Linda Neighborhood Association.

Joe Rios, applicant, stated their current business has been in operation for 45 years. It is a family-owned operated business. The purpose of this request is to rebuild their existing business on the subject property.

Motion

A motion was made by Commissioner Cruz. Regarding Case No. **BOA-23-10300279**, I move that the Board of Adjustment grant a request for 1) a request for a 10' variance from the minimum 15' Landscape Buffer to allow a 5' Landscape Buffer on the western property line and 2) a 5' variance from the required minimum 10' side setback to allow a structure with a 5' side setback, situated at 5707 S Zarzamora Street, applicant being Joe Rios, 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 side setback and buffer yard to provide spacing between the commercial use lot and the abutting residential lot. Staff finds this distance is suitable, as the residential structure is a distance away from the property line in question.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
Staff finds an unnecessary hardship due to the location of the property and there being an adjacent residential zoned 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 will be observed as the structure cannot meet the 10' minimum side setback and the 15' minimum Landscape Buffer requirement due to the placement of the new addition.
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 5' from the side and have a 5' Landscape Buffer. The structure does not appear 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.*
Because of the new structure, maintaining a 10' side setback and a 15' Landscape Buffer is difficult to achieve. The request is not merely financial.

The motion was seconded by Commissioner Manna.

Commissioner Manna offered a friendly amendment of an 8' variance from the minimum 15' landscape buffer to allow a 7' landscape buffer and 3' variance from the required 10' to allow a 7' side setback.

Favor: Cruz, Manna, Brereton, Kaplan, Riahi, Dean, Zuniga, Benavides, Bragman, Ozuna, Oroian
Opposed: None

MOTION PASSES

Item #11

Approval of the minutes from the Board of Adjustment meeting on October 23, 2023.

A motion was made by Commissioner Manna and seconded Commissioner Kaplan for approval of the October 23, 2023, minutes as amended.


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

MOTION PASSES

Director's Report – nothing to report.

Adjournment

There being no further business, the meeting was adjourned at 5:13 PM.

APPROVED BY:  or _____
Chairman Vice-Chair

DATE: 11-20-2023

ATTESTED BY:  DATE: Nov. 27, 2023
Executive Secretary