



Board of Adjustment Minutes

Development and Business Services

Center

1901 South Alamo

May 2, 2022

1:00PM

1901 S. Alamo

Board of Adjustment Members

A majority of appointive Members shall constitute a quorum.

Donald Oroian, District 8, Chair
Andrew Ozuna, Mayor, Vice Chair
Seth Teel, District 6, Pro-Tem

Vacant, District 1 | Scott Albert, District 2
Abel Menchaca, District 3 | George Britton, District 4 |
Maria Cruz, District 5 | Phillip Manna, District 7
Kimberly Bragman, District 9 | Jonathan Delmer, District 10

Alternate Members

Vacant | Elizabeth Ingalls | Jo-Anne Kaplan | Lisa Lynde
Lillian Miess | Jesse Vasquez | Jesse Zuniga

2:35 P.M. - Call to Order

- **Roll Call**
- **Present:** Kaplan, Albert, Lynde, Cruz, Manna, Lynde, Delmer, Teel, Ozuna, Oroian
- **Absent:** Menchaca, Bragman, Zuniga

2 Translators from SeproTec were present to assist with translating.

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

Public Hearing and Consideration of the following Variances, Special Exceptions, Appeals, as identified below

Item #3 (Continued from 4/18/2022) BOA2210300038: A request by Francisco Javier Morales for a 10' variance from the minimum 20' rear setback requirement to allow a structure to be 10' from the rear property line, located at 615 West Baylor. Staff recommends **Denial**. (Council District 5) (Richard BautistaVazquez, Planner (210) 2070215, richard.bautistavazquez@sanantonio.gov, Development Services Department)

Staff stated 21 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and the Collins Garden Homeowners Association is opposed.

Javier Morales- is requesting a variance. He stated he was not aware it had to be detached, per staff did not give him the correct information.

No Public Comment

Chair Oroian asked for a motion for item BOA-22-10300038 as presented.

Teel made a **motion** for item BOA-22-10300038 for Approval.

Regarding Case No. BOA-22-10300038, I move that the Board of Adjustment grant a request for a 10' variance from the minimum 20' rear setback requirement to allow a structure to be 10' from the rear property line, situated at 615 West Baylor, applicant being Francisco Javier Morales, 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 10' variance from the minimum 20' rear setback requirement to allow a structure 10' from the rear property line for a proposed dwelling.

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 having to postpone development on the lot or redesign the layout of the development.

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. A 10' variance from the minimum 20' rear setback requirement to allow a structure 10' from the rear property line for a proposed dwelling 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.*

The request for a 10' variance from the rear setback requirement is enough space away from the property line and is not likely to negatively affect the adjacent neighboring property.

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 small amount of available space.

A friendly amendment was made for a 7-foot variance.

Second: Kaplan

In Favor: Kaplan, Albert, Lynde, Cruz, Manna, Delmer, Teel, Ozuna, Oroian

Opposed: None

Motion Granted.

Item #4

(Continued from 4/18/2022) BOA-22-10300064: A request by Summit Property Holdings LLC for a 10' variance from the Beacon Hill Neighborhood Conservation District (NCD-5) minimum 20' front setback requirement to allow two residential dwellings to be 10' from the front property line, located at 1024 Blanco Street. Staff recommends Approval. (Council District 1) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 22 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and the Beacon Hill is in favor.

Ricardo Turuvetes requested a variance for a 10-foot setback. He stated it is 5 feet because they dedicated 5 feet to the city of San Antonio for the expansion of Blanco in any future case.

No Public Comment.

Chair Oroian asked for a motion for item BOA-22-10300064 as presented.

Ozuna made a **motion** for item BOA-22-10300064 for Approval.

Regarding Case No. BOA-22-10300064, I move that the Board of Adjustment grant a request for a 10' variance from the minimum 20' front setback requirement as required by the Beacon Hill NCD design standards to allow two residential dwellings to be 10' from the front property line, situated at 1024 Blanco Street, applicant being Summit Property Holdings 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 applicant is requesting a 10' variance from the minimum 20' front setback to allow a structure to be 10' from the front property line.

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 having to postpone development.

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. A 10' variance from the minimum 20' front setback to allow a structure to be 10' from the front property line requirement 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.*

Staff finds the request for a 10' variance from the minimum 20' front setback to allow a structure to be 10' from the front property line is enough space away from the adjacent property line and is likely to not negatively affect the adjacent neighboring property nor

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 small amount of available space.

Second: Teel

In Favor: Kaplan, Albert, Lynde, Cruz, Manna, Delmer, Teel, Ozuna, Oroian

Opposed:

Motion Granted.

Item #5

BOA-22-10300044: A request by Mary Gorman for a 15' variance from the 50' sign height maximum to allow a sign to be 65' tall, located at 14402 N US HWY 281. Staff recommends Denial. (Council District 9) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 8 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, 0 received outside the 200 feet in opposition, and there is no registered neighborhood association.

Mary Gorman- requested a sign height variance for prosperity bank. She stated compared to IHOP's signs, theirs is lower due to elevation.

Edward Rodriguez, City Sign inspector, - stated the IHOP sign was permitted for 50 feet in 1988.

No Public Comment

Chair Oroian asked for a motion for item BOA-22-10300044 as presented.

Cruz made a **motion** for item BOA-22-10300044 for Approval.

Regarding Case No. BOA-22-10300044, I move that the Board of Adjustment grant a request for 1) 15' variance from the 50' sign height maximum to allow a sign to be 65' tall, situated at 14402 N US HWY 281, applicant being Mary Gorman, 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 applicant is proposing to replace the existing sign with a 65' tall sign. The variance appears necessary as a denial would probably cause a cessation of legitimate, longstanding commercial use of the property due to the landscaping in the area.

3. *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 special privilege to the applicant.

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

The proposed variance does not appear to have an adverse impact on neighboring properties as most of the other signs are existing.

- C. Granting the variance will not substantially conflict with the stated purposes of this article.

The granting of the variance does not appear to substantially conflict with the stated purposes of this article.

Second: Kaplan

In Favor: Delmer

Opposed: Kaplan, Albert, Lynde, Cruz, Manna, Teel, Ozuna, Oroian

Motion Failed 1-8.

Item #6

BOA-22-10300053: A request by Leonard Trinidad for a special exception from the Short Term Rental density limitation to allow for one (1) additional Type 2 Short Term Rental Permit on the blockface, located at 151 Paul Street. Staff recommends Denial.

**(Council District 2) (Joshua Orton, Senior Planner (210) 207-7945,
Joshua.Orton@sanantonio.gov, Development Services Department)**

Staff stated 40 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and there is no response from the Denver Heights Neighborhood Association.

Leonard Trinidad- Applicant bought the house in town for work schedule, he drives in from Houston, wants to turn it into an Airbnb available when he is not in town.

No Public Comment

Chair Oroian asked for a motion for item BOA-22-10300053 as presented.

Teel made a **motion** for item BOA-22-10300053 for approval.

Regarding Case No. BOA-22-10300053, I move that the Board of Adjustment grant a special exception to allow for (1) Type 2 short term rental units, situated at 151 Paul Street, applicant being Leonard 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 not materially endanger the public health or safety.

The Board finds that the request to operate one 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 address.

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

The Board finds that there are a total of nine (9) residential units on this block face and the special exception would permit a total of two (2) Type 2 short term rentals, resulting in 22.2% of the block face. There does not appear to be a reason to believe a public nuisance would be created if these permits were approved.

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

The neighboring properties consist of single-family structures. There is no reason to believe that the addition of a Short Term Rental Unit will substantially injure neighboring property.

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 a single family residential neighborhood. 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.

Second: Kaplan

In Favor: Cruz, Delmer, Teel, Ozuna, Oroian

Opposed: Kaplan, Albert, Lynde, Manna

Motion failed 5-4.

Item #7

BOA-22-10300059: A request by Tracy Chell for a special exception from the Short Term Rental density limitation to allow for one (1) additional Type 2 Short Term Rental Permit on the blockface, located at 132 Carnahan Street. Staff recommends Denial. (Council District 2) (Joshua Orton, Senior Planner (210) 207-7945, Joshua.Orton@sanantonio.gov, Development Services Department)

Staff stated 27 notices were sent out, 0 returned in favor, 1 returned in opposition, and the Mahncke Park Neighborhood Association is opposed.

Tracey Chell- bought the property as a second home/getaway. She would like to have it available as an Airbnb for select customers.

No Public Comment

Chair Oroian asked for a motion for item BOA-22-10300059 as presented.

Teel made a **motion** for BOA-22-10300059 for Approval.

Regarding Case No. BOA-22-10300059, I move that the Board of Adjustment grant a special

exception to allow for (1) Type 2 short term rental units, situated at 132 Carnahan Street, applicant being Tracy Chell, 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 one 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 address.

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

The Board finds that there are a total of five (5) residential units on this block face and the special exception would permit a total of two (2) Type 2 short term rentals, resulting in 40% of the block face. There does not appear to be a reason to believe a public nuisance would be created if these permits were approved.

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

The neighboring properties consist of single-family structures. There is no reason to believe that the addition of a Short Term Rental Unit will substantially injure neighboring property.

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 a single family residential neighborhood with surrounding commercial uses that are conducive to the operation of a short term rental. 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.

Second: Ozuna

In Favor: Cruz, Delmer, Teel, Ozuna, Oroian

Opposed: Kaplan, Albert, Lynde, Manna

Motion failed 5-4.

Item #8

BOA-22-10300049: A request by Matthew Hlavinka for a 5' 6" variance from the Woodlawn Lake Neighborhood Conservation District design regulations of the maximum 50' front-façade width to allow a front façade to be 55' 6" wide, located at 1303 Waverly Ave. Staff recommends Approval. (Council District 7) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 24 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and there was no response from the Woodlawn Lake Community Association.

Matthew Hlavinka, architect- requested a wrap around porch, no height extension.

No Public Comment

Chair Oroian asked for a motion for item BOA-22-10300049, as presented.

Ozuna made a **motion** for BOA-22-10300049 for Approval.

Regarding Case No. BOA-22-10300049, I move that the Board of Adjustment grant a request for a 5' 6" variance from the Woodlawn Lake Neighborhood Conservation District design regulations of the maximum 50' front-façade width to allow a front façade to be 55' 6" wide, situated at 1303 Waverly Avenue., applicant being Matthew Hlavinka, 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 covered porch is attached to the front façade and will exceed the 50' maximum width by 5' 6". With 63% of the homes in the Woodlawn Lake NCD area

containing a front porch, the variance does not appear to be contrary to the public interest as they are adding a front porch element.

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 needing to decrease the width of the front porch. A literal enforcement would result in unnecessary hardship as this lot is much wider than others in the area.

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 spirit of the NCD design standards are observed as the front porch feature will lend to the quality and character of the principal structure and streetscape.

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.*

The variance will not authorize the operation of a use other than those specifically authorized in the “R-4” zoning district.

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 proposed variance does not appear to substantially injure adjacent conforming properties nor will it alter the essential character of the district as it will meet all other requirements set forth in the Woodlawn Lake NCD.

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 lot has the largest width on the block at 100’ which is a unique circumstance existing on the property and the plight of the owner is not merely financial.

Second: Manna

In Favor: Kaplan, Albert, Cruz, Manna, Delmer, Lynde, Teel, Ozuna, Oroian

Opposed: None

Motion Granted.

Item #9 **BOA-22-10300034: A request for a 2' special exception from the maximum 6' fence height requirement to allow an 8' fence along the side and rear property lines, located at 227 Lewis St. Staff recommends Approval. (Council District 1) (Vincent Trevino, Senior Planner (210) 207- 5501, vincent.trevino@sanantonio.gov, Development Services Dept.)**

Staff stated 40 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and no response from the Tobin Hill Community Association.

Justin Sanderson, representative- requested variance for extra security and privacy.

No Public Comment

The Board asked the applicant and staff questions concerning the request. The applicant and staff responses were heard by the board, followed by a discussion among board members before the vote.

Chair Oroian asked for a motion for item BOA-22-10300034, as presented.

Cruz made a **motion** for BOA-22-10300034 for Approval.

Regarding Case No. BOA-22-10300034, I move that the Board of Adjustment grant a request for a 2' special exception from the maximum 6' fence height requirement to allow an 8' solid screened fence along the side and rear yard, situated at 227 Lewis St., applicant being Jennifer Higgins, 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 additional fence height as proposed 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 commercial property owners while still promoting a sense of community. The fence will still serve 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 property and is unlikely to substantially injure any neighboring 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 height for the side and rear yard fence will not alter the essential character of the district.

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 permits the current use. The requested special exception will not weaken the general purpose of the district.

Second: Manna

In Favor: Kaplan, Albert, Lynde, Cruz, Manna, Delmer, Lynde, Teel, Ozuna, Oroian

Opposed: None

Motion Granted.

Item #10

BOA-22-10300043: A request by Raul Ayala for 1) 8' 9" variance from the minimum 10' front setback requirement to allow a carport to be 3' from the front property line and 2) a 3' variance from the minimum 5' side setback requirement to allow a carport with 1' 2" overhang and gutters to be 2' from the side property line, located at 1714 Rivas Street. Staff recommends Denial with an Alternate Recommendation. (Council District 5) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 22 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and no response from Prospect Hill nor West end Hope in Action Neighborhood Association.

Raul Ayala- requested a variance for a carport to cover vehicles to protect from hail damage. He amended his application to include gutters on the neighbor's side.

No Public Comment.

Chair Oroian asked for a motion for item BOA-22-10300043 as presented.

Chair Oroian made a **motion** for BOA-22-10300043 for approval.

Regarding Case No. BOA-22-10300043, I move that the Board of Adjustment grant a request for 1) a 5' variance from the minimum 10' front setback to allow a carport to be 5' from the front property line and 2) a 3' variance from the minimum 5' side setback requirement to allow a carport with 1' 2" overhang and gutters to be 2' from the side property line, situated

at 1714 Rivas Street, applicant being Raul Ayala, 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 for a variance from the minimum 10' front setback to allow a carport to be 5' from the front property line and a variance from the minimum 5' side setback requirement to allow a carport with 1' 2" overhang and gutters to be 2' from the side property line.

- 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 having to move the post of the structure to 5' away from side property lines and 10' from the front property line which would require a possible demolition of the carport to build.

- 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 carport was possibly erected for protection of the vehicles that will be placed under the structure will not adversely affect surrounding properties in the immediate 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 request for a variance from the minimum 10' front setback to allow a carport to be 5' from the front property line and a variance from the minimum 5' side setback requirement to allow a carport with 1' 2" overhang to be 2' from the side property line is likely to not negatively affect the adjacent neighboring property.

- 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 small amount of available space.

Second: Cruz

In Favor: Kaplan, Albert, Lynde, Cruz, Manna, Delmer, Teel, Ozuna, Oroian

Opposed: None

Motion Granted.

Item #11

BOA-22-10300046: A request by Nicholas Nunium for a 6' 3" variance from the minimum 10' front setback requirement to allow a structure to be 3'9" from the front property line, located at 325 South Hackberry Street. Staff recommends Approval. (Council District 2) (Rebecca Rodriguez, Senior Planner, (210) 207-0120, Rebecca.Rodriguez@sanantonio.gov, Development Services Department)

Staff stated 30 notices were mailed to property owners within 200 feet, 1 returned in favor, and 0 returned in opposition, and no response from the Alamo Gardens Neighborhood Association.

Nicholas Nunium- requested a variance to replace patio to be safer for the family.

No Public Comment:

Chair Oroian asked for a motion for item BOA-22-10300046 as presented.

Teel made a **motion** for BOA-22-10300046 for approval.

Regarding Case No. BOA-22-10300046, I move that the Board of Adjustment grant a request for a 6' 3" variance from the minimum 10' front setback requirement, to allow a patio cover to be 3' 9" from the front property line, situated at 325 South Hackberry Street, applicant being Nicholas Nunium, 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 request is to allow the removal and replacement of an existing patio cover which maintains adequate spacing to the front property line and does not appear to be contrary to the public interest.

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

The Board finds that any special conditions that, if enforced, would result in an unnecessary hardship. By imposing a literal enforcement of a ten foot front setback, the removal and replacement of the patio could not be accomplished as there is not enough space to meet the front setback requirement.

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. Substantial justice will be done by allowing the replacement of the patio cover, which meets the side setback requirement.

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

The variance will not authorize the operation of a use other than those uses specifically authorized by the district.

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 proposed structure does not cause any concern and does not appear to substantially injure uses of adjacent conforming properties or the character of the neighborhood. The reduction of the front setback to 3'9" does not appear to injure adjacent properties, as this is the only lot that is fronting Hackberry Street.

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 Board finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property. The unique size and location of the lot prevents the redevelopment of the patio cover; therefore, the request is not merely financial.

Second: Cruz

In Favor: Kaplan, Albert, Cruz, Manna, Delmer, Lynde, Teel, Ozuna, Oroian

Opposed: None

Motion Granted.

Item #12

BOA-22-10300048: A request by Howard Guirdy for a 3' variance from the minimum 5' rear setback requirement to allow a pool to be 2' from the rear property line, located at 23010 Summit Canyon. Staff recommends Approval. (Council District 9) (Vincent Trevino, Senior Planner (210) 207-5501, vincent.trevino@sanantonio.gov, Development Services Department)

Chair Oroian asked for a motion for item BOA-22-10300048 to be continued to May 16, 2022.

Teel made a **motion** for BOA-22-10300048 for a continuance to May 16, 2022.

Regarding Case No. BOA-22-10300048, I move that the Board of Adjustment grant a continuance to May 16, 2022.

Second: Kaplan

In Favor: Kaplan, Albert, Cruz, Manna, Delmer, Lynde, Teel, Ozuna, Oroian

Opposed: None

Motion Granted for a continuance to May 16, 2022.

Item #14

Approval of the minutes from the Zoning Board of Adjustment meeting on April 18, 2022.

Motion: Kaplan made a motion for Approval of the April 18, 2022 minutes.

Second: Cruz

In Favor: Kaplan, Albert, Cruz, Manna, Delmer, Lynde, Teel, Ozuna, Oroian

Opposed: None

Minutes Approved.

Announcement:

Director's Report: Update on 2022 UDC Amendments.

Monique Mercado- PTAC is on track to wrap up on May 9th. They are utilizing those weeks to brief Boards and Commissions, so everything runs smoothly. There will be a work session on July 18th.

Adjournment

There being no further business, the meeting was adjourned at 4:30 P.M.

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary