

City of San Antonio



Board of Adjustment Minutes

Development and Business Services Center
1901 South Alamo

May 16, 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

Mark Spielman, 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

1:00 P.M. - Call to Order

- **Roll Call**

Present: Kaplan, Albert, Menchaca, Spielman, Cruz, Manna, Bragman, Vasquez, Teel, Ozuna, Oroian

- **Absent:** Britton, Delmer

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 #1 BOA-22-10300047: POSTPONED**Item #2 (Continued from 5/2/2022) 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)**

Staff stated 36 notices were mailed to property owners within 200 feet, 1 returned in favor, 0 returned in opposition, and there is no registered Neighborhood association.

Howard Guirdy, applicant, - stated the property is at an angle especially in the backyard. The stairs would have gone straight into the pool if not set up this way.

No Public Comment

Chair Oroian asked for a motion for item **BOA-22-10300048** as presented.

Bragman made a **motion** for item **BOA-22-10300048** for Approval.

Regarding Case No. BOA-22-10300048, I move that the Board of Adjustment grant a request for a 3' variance from the minimum 5' rear setback requirement to allow a swimming pool to be 2' from the rear property line., situated at 23010 Summit Canyon, applicant being Howard Guirdy, 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 3' variance from the minimum 5' rear setback requirement to allow a pool to be 2' from the rear property line. The majority of the swimming pool maintains the 5' rear setback, so the corner that encroaches into the setback 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.

A literal enforcement of the ordinance would result in the applicant having to relocate the swimming pool to meet the 5' rear setback requirement. There is only one corner that is encroaching into the rear setback.

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 swimming pool is currently 2' from the rear property line on one end of the pool. This observes the spirit of the ordinance as the majority of the pool is setback the required 5'.

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-6" 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 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.

The rear setback variance request appears to be sought due to the small size of the subject property and the angled rear property line which are unique circumstances existing on the lot and are not merely financial.

Second: **Kaplan**

In Favor: **Bragman, Kaplan, Spielman, Albert, Menchaca, Vasquez, Cruz, Manna, Teel, Ozuna, and Oroian**

Opposed: **None**

Motion approved.

Item #3

BOA-22-10300066: A request by Morgan's Wonderland for a 10' variance from the maximum 40' sign height allowance to allow a 50' tall single tenant sign, located at 5223 David Edwards Drive. Staff recommends Approval. (Council District 10) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov)

Staff stated 11 notices were mailed to property owners within 200 feet, 1 returned in favor, 0 returned in opposition, and there is no registered Neighborhood association.

Kathy Song, representative, - mentioned it was already approved in the past for the height variance. It would be costly to lower the sign, so they submit to have it stay the same height.

No Public Comment

Oroian asked more a motion for **BOA-22-10300066**

Cruz made a **Motion** for approval for **BOA-22-10300066**

Regarding Case No. BOA-22-10300066, I move that the Board of Adjustment grant a request for a 10' variance from the maximum 40' sign height allowance to allow a 50' tall single-tenant sign, situated at 5223 David Edwards, applicant being Morgan's Wonderland, 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 sign was originally approved as a multi-tenant sign which is permitted to be 50' in height, but the applicant is proposing to remove a cabinet, which would turn the sign into a single-tenant sign. The request to maintain the height does not appear to be excessive in nature and, with the sign being existing, a denial of the variance may cause a cessation of commercial use of the property.

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 variance does not appear to provide special privilege to the applicant nor others similarly situated.

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

The proposed sign variance does not appear to have an adverse impact on neighboring properties as the sign is currently existing and the proposed changes to the sign are minimal.

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

The requested variance will not substantially conflict with the stated purpose of the chapter

Second: **Manna**

In Favor: **Bragman, Kaplan, Spielman, Albert, Menchaca, Vasquez, Cruz, Manna, Teel, Ozuna, and Oroian**

Opposed: **None**

Motion approved.

Item #4

BOA-22-10300083: A request by AAG All Pro Construction LLC for 1) a 1' special exception from the maximum 6' fence height requirement to allow for a 7' fence and 2) a 3' variance from the maximum 4' height requirement to allow for a 7' solid screened fence within the MC-3 Corridor Overlay, located at 1278 Austin Hwy. Staff recommends Denial with an Alternate Recommendation. (Council District 2) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov)

Staff stated 17 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and there was no response from the Terrel Heights nor Wilshire Village neighborhood associations

Paul Guerrero, representative, - stated the fence was wanted for safety.

No Public Comment

Chair Oroian asked for a motion for item **BOA-22-10300083** as presented.

Teel made a **motion** for item **BOA-22-10300083** for Approval.

Regarding Case No. BOA-22-10300083, I move that the Board of Adjustment grant a request for 1) a 1' special exception from the maximum 6' fence height requirement to allow for a 7' fence and 2) a 3' variance from the maximum 4' height requirement to allow for a 7' solid screened fence within the MC-3 Corridor Overlay, situated at 1278 Austin Hwy, applicant being AAG All Pro Construction 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:

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

The UDC states the Board of Adjustment can grant a special exception for a fence height modification. Staff finds the request for a 7' tall fence 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 while still promoting a sense of community. The 7' fence along the front and side portion of the yard may not pose any adverse effects to the public welfare. The existing chain link fence will be removed in order to install the new fence.

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

A new fence will create enhanced security for the subject property on the front and side yard and is unlikely to substantially injure any neighboring properties. The additional height will serve to provide additional security to the property.

- 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 front and side yard fencing does not appear to alter the essential character of the district. The request for additional fence height is to provide additional safety.

- 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 and will not weaken the general purpose of the district.

Second: **Kaplan**

In Favor: **Bragman, Kaplan, Spielman, Albert, Menchaca, Vasquez, Cruz, Manna, Teel, Ozuna, and Oroian**

Opposed: **None**

Manna made a friendly amendment to be aligned with the site plan provided for the application.

In Favor: **Bragman, Kaplan, Spielman, Albert, Menchaca, Vasquez, Cruz, Manna, Teel, Ozuna, and Oroian**

Opposed: **None**

Motion approved.

Item #5

BOA-22-10300061: A request by Jin Koh 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 block face, located at 2205 Monterey Street. Staff recommends Denial. (Council District 5) (Joshua Orton, Senior Planner (210) 2077945, Joshua.Orton@sanantonio.gov, Development Services Department)

Staff stated 27 notices were mailed to property owners within 200 feet, 0 returned in favor, 1 returned in opposition, and there was no response Historic Westside Association.

Jin Koh, applicant: stated they acquired 17 signatures from knocking on neighbor doors.

No Public Comment

Chair Oroian asked for a motion for item BOA-22-10300061 as presented.

Ozuna made a **motion** for item BOA-22-10300061 for approval.

Regarding Case No. BOA-22-10300061, I move that the Board of Adjustment grant a special exception to allow for (1) Type 2 short term rental unit, situated at 2205 Monterey Street, applicant being Jin Koh, 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: Bragman

In Favor: Bragman, Teel, Ozuna, Oroian

Opposed: Spielman, Kaplan, Albert, Menchaca, Vasquez, Cruz, Manna

Motion Failed.

Item #6

BOA-22 -10300087: A request by Pape-Dawson Engineers for a 61' variance from the maximum 90' front setback requirement to allow a structure to be 151' from the front property line, generally located northwest of the Rogers Road and Wiseman Boulevard. Staff recommends Approval. (Council District 6) (Rebecca Rodriguez, Senior Planner, (210) 207-0120, Rebecca.Rodriguez@sanantonio.gov, Development Services Department)

Staff stated 7 notices were sent out, 0 returned in favor, 0 returned in opposition, and there is no registered neighborhood association.

Zoey Jasso, representative, - stated they requested the variance to allow the preservation of mature trees on site.

No Public Comment

Chair Oroian asked for a motion for item **BOA-22 -10300087** as presented.

Teel made a **motion** for **BOA-22 -10300087** for Approval.

Regarding Case No. **BOA-22-10300087**, I move that the Board of Adjustment grant a request for a 61' variance from the maximum 90' front setback requirement to allow a structure to be 151' from the front property line situated northwest of Rogers Road and Wiseman Boulevard, applicant being Pape-Dawson Engineers, 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 would allow the proposed multi-family development to have a front setback of 151' in lieu of the maximum 90' setback. The structure would be situated a reasonable distance from Rogers Road; therefore, the request is not 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, it would result in the redesign of the proposed development to maintain the maximum setback permitted of 90'. Staff finds an unnecessary hardship due to the substantial size of the lot and the street frontage classification.

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 intent of the front setback is to ensure there is adequate spacing between the frontage road and the structure. Maintaining this distance will provide additional security and safety due to the frontage being off Rogers Road, a Secondary Arterial A roadway.

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 request for 61' variance to allow the structure to be 151' from the front property line does not pose a risk of substantially injuring the use of adjacent properties and does not seem likely to alter the essential character of the district. Neighboring structures also maintain a considerable distance from the front property line.

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 that the plight of the property owner is sought due to the unique circumstances existing on the property such as the size and location of the lot. The variance request is not merely financial.

Second: Manna

In Favor: Bragman, Kaplan, Spielman, Albert, Menchaca, Vasquez, Cruz, Manna, Teel, Ozuna, and Oroian

Opposed: None

Motion approved.

Item #8

BOA-22-10300028: A request by Lauren Snider for a 4' 11" variance from the 5' side setback requirement to allow a detached structure to be 1" from the side property line, located at 326 Clay 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 33 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and the Lonestar Homeowners Association was in favor.

Mikah Harper, applicant, - requested a patio covering for the deck and backyard.

No Public Comment

Chair Oroian asked for a motion for item **BOA-22-10300028**, as presented.

Ozuna made a **motion** for **BOA-22-10300028** for Approval.

Regarding Case No. **BOA-22-10300028** I move that the Board of Adjustment grant a request for a 4'11" variance from the minimum 5' side setback requirement to allow a detached structure with gutters to be 1" from the side property line, situated at 326 Clay Street, applicant being Lauren Snider, 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 4'11" variance to allow a detached structure with gutters to be 1" from the side property line which is not contrary to the public interest.

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

A literal enforcement of the ordinance would result in the applicant having to move the post of the structure to 5' away from side property lines which does not allow enough space for the covered patio to be built.

- 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 4'11" variance from the minimum 5' side setback requirement to allow a detached structure with gutters to be 1" from the side property line will observe the spirit of the ordinance.

- 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.*

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 variance request is not likely to negatively affect the adjacent neighboring property due to the addition of gutters on the structure.

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

Staff finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property such as covered patio being able to cover the entire yard.

Second: Bragman

In Favor: Bragman, Kaplan, Spielman, Albert, Menchaca, Vasquez, Cruz, Manna, Teel, Ozuna, and Oroian

Opposed: None

Motion approved.

The Board of Adjustment meeting went into recess at 2:42 P.M. and reconvened at 2:57 P.M.

Item #7

BOA-22-10300017: A request by Salvador Gutierrez for 1) 2' 9" special exception from the maximum 3' solid screened fence height requirement to allow a 5' 9" solid screen fence in the front yard and 2) a 1' 10" special exception from the maximum 6' large lot predominantly open screened fence requirement to allow a 7' 10" predominantly open screened fence in the front yard, located at 1011 West Villaret. Staff recommends Denial with an Alternate Recommendation. (Council District 4) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 15 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and there is no registered neighborhood association.

Salvador Gutierrez, applicant, had verbal agreement with neighbors for the fence. He submit the request for additional security.

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-22-10300017**, as presented.

Teel made a **motion** for **BOA-22-10300017** for Approval.

Regarding Case No. **BOA-22-10300017**, I move that the Board of Adjustment grant a request for 1) 2' 9" special exception from the maximum 3' solid screened fence requirement to allow a 5' 9" solid screen fence in the front yard and 2) a 1' 10" special exception from the maximum 6' large lot predominantly open screened fence requirement to allow a 7' 10" predominantly open screened fence in the front yard situated at 1011 West Villaret, applicant being Salvador Gutierrez, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship. Specifically, we find that:

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

The UDC states the Board of Adjustment can grant a special exception for a fence height modification. The additional fence height for the predominately open front yard fence and solid screened front yard fence was observed upon the site visit and, if granted, staff finds the request would be in harmony with the spirit and purpose of the ordinance.

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

In this case, these criteria are represented by fence heights to protect residential property owners while still promoting a sense of community. The fence is mixture of completely solid-screened and predominantly open fence which still serves the public welfare and convenience. Staff finds that the special exception for the predominately open fence and solid screened fence will serve the public welfare and convenience

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

The special exception for the predominately open gate and solid screened 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 predominately open section and solid screened fence of front 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 of a single-family home. The requested special exception will not weaken the general purpose of the district.

Second: Manna

In Favor: Bragman, Kaplan, Spielman, Albert, Menchaca, Vasquez, Cruz, Manna, Teel, Ozuna, and Oroian

Opposed: None

Motion approved.

Item #9

BOA-22-10300050: A request by Epic Remodeling and Construction LLC for a 5' variance from the minimum 10' rear setback requirement to allow a structure to be 5' from the rear property line, located at 236 King William. Staff recommends Approval. (Council District 1) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 30 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and no response from the King Williams Homeowners Association.

Cibol PC, representative, - explained the condition of the home and request for development.
Susan Lucavich, homeowner, - explained what she would like to do to the property.

No Public Comment

Chair Oroian asked for a motion for item BOA-22-10300050 as presented.

Cruz made a **motion** for BOA-22-10300050 for approval.

Regarding Case No. BOA-22-10300050, I move that the Board of Adjustment grant a request for a 5' variance from the minimum 10' rear setback requirement to allow an addition to be 5' from the rear property line, situated at 236 King William , applicant being Epic Remodeling and Construction 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 5' variance from the minimum 10' rear setback requirement to allow an addition to be 5' from the rear 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 structure 5' further back which would reduce the size of the addition.

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 5' variance from the minimum 10' rear setback requirement to allow an addition to be 5' from the rear property line 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 5' variance from the minimum 10' rear setback requirement to allow an addition to be 5' from the rear property line and 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 space located in the rear of the property.

Second: Bragman

In Favor: **Bragman, Kaplan, Spielman, Albert, Menchaca, Vasquez, Cruz, Manna, Teel, Ozuna, and Oroian**

Opposed: **None**

Motion approved.

Item #10

BOA-22-10300065: A request by Weston Dean Custom Homes for 1) a 9" variance from the minimum 20' front setback requirement to allow a structure to be 19' 3" from the front property line and 2) 3' variance (with 8' credit from the alley) from the minimum 20' rear setback requirement to allow a structure to be 9' from the rear property line, located at 228 Rockhill Drive. Staff recommends Approval. (Council District 10) (Rebecca Rodriguez, Senior Planner, (210) 207-0120, Rebecca.Rodriguez@sanantonio.gov, Development Services Department)

Staff stated 26 notices were mailed to property owners within 200 feet, 6 returned in favor, and 0 returned in opposition, and Oak Park Northwood Neighborhood Association is in favor.

Colton Barham, representative, - stated due to the layout of the property part of it cannot be built on so they need the variance

Dr. Dyer, applicant, - stated they are ready to break ground to build their forever home.

Public Comment:

Walter Gleie, 419 Burnside 78209, - stated he was concerned about possibility of future fires and adjoining properties.

Chair Oroian asked for a motion for item BOA-22-10300065 as presented.

Bragman made a **motion** for BOA-22-10300065 for approval.

Regarding Case No. BOA-22-10300065, I move that the Board of Adjustment grant a request for 1) a 9" variance from the minimum 20' front setback requirement to allow a structure to be 19' 3" from the front property line and 2) 3' variance (with 8' credit from the alley) from

the minimum 20' rear setback requirement to allow a structure to be 9' from the rear property line, situated at 228 Rockhill Drive, applicant being Weston Dean Custom Homes, 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 structure to be 19' 3" from the front property line and 9' from the rear property line. The structure meets the minimum side setback requirements and will maintain adequate spacing between the structure and the property lines therefore the request is not 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, the new single-family residence must maintain 20' to the front and rear property lines leading to an unnecessary hardship due to the irregular shaped lot which would prevent the development of a reasonable sized residence and redesign of plans.

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 intent of the front and rear setbacks is to ensure there is adequate space between neighboring properties and the frontage road. With the request, the structure will continue to maintain adequate spacing between the adjacent properties and will not pose any life safety issues.

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 variance requests do not pose a risk of substantially injuring the use of adjacent properties and does not seem likely to alter the essential character of the district.

6. *The plight of the owner of the property for which the variance is sought is due to unique*

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

The Board finds that the plight of the property owner is sought due to the unique circumstances existing on the property. The property maintains a unique shaped and the property's zoning district setback requirements are more stringent than other residential base zoning districts.

Second: Teel

In Favor: Bragman, Kaplan, Spielman, Albert, Menchaca, Vasquez, Cruz, Manna, Teel, Ozuna, and Oroian

Opposed: None

Motion Granted.

Item #11

BOA-22-10300085: A request by Jacob Castro for a variance from the fence materials to allow for a corrugated metal fence in the rear yard, located at 2347 SW 21st Street. Staff recommends Approval. (Council District 5) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov)

Staff mentioned 23 notices had been mailed out, 0 returned in favor, 0 returned in opposition, and there was no response from the Thompson Neighborhood Association.

Jacob Castro, applicant, - stated he wanted to build a corrugated metal fence.

No Public Comment

Chair Oroian asked for a motion for item **BOA-22-10300085** as presented.

Manna made a **motion** for **BOA-22-10300085** for approval.

Regarding Case No. BOA-22-10300085, I move that the Board of Adjustment grant a variance from the fence materials to allow a corrugated metal fence in the rear yard., situated at 2347 SW 21st Street, applicant being Jacob Castro, 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 requested variance is for a corrugated metal fence in the rear yard of the subject property. It is not easily detected from the public right-of-way and has protected edges, so the variance does not appear contrary to the public interest.

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

A literal enforcement of the ordinance would result in needing to replace the material of the fence and may result in the property being more vulnerable due to its proximity to an alley. With the special conditions of the property abutting an alley the variance will assist in alleviating this hardship.

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

The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. The fence meets the height requirements and is only along the rear property line and a portion of the side property lines. This variance request observes 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 does not find the request for the corrugated metal to substantially injure adjacent conforming properties due to the protected edges of the metal. With the location of the fence being in the rear yard, the request also 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.

Staff finds the plight of the owner of the property for which the variance is sought is due to unique circumstances such as its location abutting an alley and is not merely financial in nature.

Second: Cruz

In Favor: Bragman, Kaplan, Spielman, Albert, Menchaca, Vasquez, Cruz, Manna, Teel, Ozuna, and Oroian

Opposed: None

Motion Granted.

Item #12

Approval of the minutes from the Zoning Board of Adjustment meeting on April 4, 2022.

Motion: Manna made a motion for Approval of the April 4, 2022 minutes.

Second: Cruz

In Favor: Kaplan, Albert, Menchaca, Zuniga, Cruz, Manna, Bragman, Lynde, Teel, Ozuna, Oroian

Opposed: None

Minutes Approved.

Announcement:

Director's Report: Update on 2022 UDC Amendments.

Adjournment

There being no further business, the meeting was adjourned at 3:48 P.M.

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary