

City of San Antonio



Board of Adjustment Minutes

Development and Business Services Center
1901 South Alamo

June 6, 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

1:01 P.M. - Call to Order

- **Roll Call**

Present: Spielman, Albert, Menchaca, Lynde, Cruz, Manna, Bragman, Delmer, Vasquez, Ozuna, Oroian

- **Absent:** Britton, Teel

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BOA-22-10200077: WITHDRAWN

Lynde joined the boardroom at 1:06 P.M.

Item #2

BOA-22-10300047: A request by Jaime Sanchez for 1) a 5' variance from the 10' front setback requirement to allow a carport with gutters to be 5' away from front property line and 2) a 4' 6" variance from a 5' side setback requirement to allow a carport with gutters to be 6" away from side property line, 3) a request for a 1' 4" special exception from the maximum 5' fence height to allow a 6' 4" predominately open fence in the front yard, 4) a 6' variance from the Clear Vision Standards to allow a gate 9' from the curb, located at 127 Blueridge. Staff recommends Denial with an Alternate Recommendation. (Council District 1) (Vincent Trevino, Senior Planner (210) 207- 5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 45 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and there was no response from the Prospect Hill Neighborhood Association.

Jaime Sanchez, applicant, - wants the carport to protect cars. Amended his application at the podium to include gutters.

No Public Comment

Chair Oroian asked for a motion for item **BOA-22-10300047** as presented.

Ozuna made a **motion** for item **BOA-22-10300047** for approval.

Regarding Case No. **BOA-22-10300047**, I move that the Board of Adjustment grant a request for 1) a 9' variance from the minimum 10' front setback requirement to allow a carport to be 1' away from front property line and 2) a 4' 6" variance from the minimum 5' side setback requirement to allow a carport to be 6" away from side property line, and 3) a 6' variance from the minimum 15' Clear Vision Standard to allow a gate 9' from the curb, situated at 127 Blueridge, applicant being Jaime Sanchez, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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 variances to allow a carport with gutters to be 5' away from front property line and 6" away from side property line.

Another request is for a 6' variance from the Clear Vision Standards to allow a gate 9' from the curb. The gate is on a rolling track and does not appear to be contrary to the public interest as the DSD Traffic Staff has no issues with the clear vision within the right of way.

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 carport structure to follow zoning setbacks which would avoid any life/safety risk that might arise being too close to neighboring structures.

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 proposed setbacks for the front and side will not impose any harm, as the spirit of the ordinance will be observed.

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 variances as requested appear to bring the carport the same as others in the area, therefore the request would not alter the essential character of the neighborhood.

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

Staff finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property such as the limited space of the lot.

Second: **Manna**

In Favor: **Spielman, Albert, Menchaca, Lynde, Cruz, Manna, Bragman, Delmer, Vasquez, Ozuna, Oroian**

Opposed: **None**

Chair **Oroian** requested a friendly amendment to include gutters.

Ozuna made a friendly amendment for item BOA-22-10300047 to include gutters

Second: **Manna**

In Favor: **Spielman, Albert, Menchaca, Lynde, Cruz, Manna, Bragman, Delmer, Vasquez, Ozuna, Oroian**

Opposed: **None**

Motion approved.**Item #3**

BOA-22-10300052: A request by Tobias L Mandujano for 1) a 770 square foot lot size variance from the minimum 4,000 square foot requirement to allow a 3,230 square foot lot at 114 and 116 Huerta Street, 2) a 8' 4" from the minimum 20' garage setback requirement to allow a garage to be 11' 8" from the front property line at 114, 116 and 122 Huerta Street, and 3) a 10' variance from the minimum 20' rear setback requirement to allow a structure at 114 and 116 Huerta Street to be 10' from the rear property line. Staff recommends Approval. (Council District 5) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department

Staff stated 45 notices were mailed to property owners within 200 feet, 1 returned in favor, 0 returned in opposition, and there was no response from the San Juan Gardens Neighborhood Association.

Matthew Goff, business partner, - wants to continue to build single family homes.

No Public Comment

Chair Oroian asked for a motion for **BOA-22-10300052**

Bragman made a **Motion** for **BOA-22-10300052** for approval.

Regarding Case No. **BOA-22-10300052**, I move that the Board of Adjustment grant a request for 1) a 770 square foot lot size variance from the minimum 4,000 square foot requirement to allow a 3,230 square foot lot at 114 and 116 Huerta Street, 2) a 8' 4" from the minimum 20' garage setback requirement to allow a garage to be 11' 8" from the front property line, and 3) a 10' variance from the minimum 20' rear setback requirement to allow a structure at 114 and 116 Huerta Street to be 10' from the rear property line, situated at 114, 116 and 122 Huerta Street, applicant being Tobias Mandujano, 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 variances to the garage setback for all three properties. Additional variances for 114 and 116 Huerta Street include variances to the lot size and rear setback. There are many other similar structures and lots in the immediate area, so the variance requests do 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 reduction in the developable area of the lot which may result in an unnecessary 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 proposed setbacks appear to be consistent with setbacks of other dwellings in the area and appear to provide adequate space so the spirit of the ordinance will be observed.

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.*

Properties located along Huerta Street appear to have smaller setbacks due to the size of the lots and the fact that they were established long ago, therefore the request would not alter the essential character of the neighborhood.

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

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 limited size of the lot and the variance requests are not merely financial.

Second: **Ozuna**

Chair Oroian asked for a **friendly amendment** to change the 8'4" garage minimum setback to 4' for 114 and 116 Huerta Street.

Bragman and Ozuna accepted the **friendly amendment**.

In Favor: **Spielman, Albert, Menchaca, Lynde, Cruz, Manna, Bragman, Delmer, Vasquez, Ozuna, Oroian**

Opposed: **None**

Motion approved.

Item #4

BOA-22-10300054: A request by Francisco Gonzalez for 1) a variance to allow driveway access off of S New Braunfels and 2) a 250 square foot lot size variance from the minimum 4,000 sq. ft. requirement to allow a 3,750 sq. ft. lot, located at 1210 South New Braunfels. Staff recommends Approval. (Council District 2) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

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 Denver Heights

Neighborhood Association.

Francisco Gonzales, applicant, - wants to build a house to improve the neighborhood.

No Public Comment

Chair Oroian asked for a motion for item **BOA-22-10300054** as presented.

Manna made a **motion** for item **BOA-22-10300054** for approval.

Regarding Case No. **BOA-22-10300054**, I move that the Board of Adjustment grant a request for 1) a variance from the Lot Layout Regulations to allow driveway access off of South New Braunfels Avenue and 2) a 250 square foot lot size variance from the minimum 4,000 square foot requirement to allow a 3,750 square foot lot, situated at 1210 South New Braunfels Avenue, applicant being Francisco Gonzalez, 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 variances to the minimum lot size and the access to the property. The lot currently has a unique orientation where the only entrance can be from South New Braunfels, which is a Primary Arterial B.

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 meet the minimum lot requirements and possibly improve the alley for access. These will cause an unnecessary hardship because the best access point to the property is from South New Braunfels.

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 variance to allow street frontage on a Primary Arterial B will observe the spirit of the ordinance, as it is the only access currently available for the property.

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 requests are not negatively affect the adjacent neighboring property due to the other residential properties that are similar in the surrounding area.

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 existing on the property such as the small amount of available space and the orientation and location of the lot.

Second: **Spielman**

In Favor: **Spielman, Albert, Menchaca, Lynde, Cruz, Manna, Bragman, Delmer, Vasquez, Ozuna, Oroian**

Opposed: **None**

Motion approved.

Item #5

BOA-22-10300060: A request by Mary Hernandez for a 2' special exception from the maximum 6' fence height to allow a solid screened fence to be 8' tall along the side property line, located at 1423 Santa Anna. Staff recommends Approval. (Council District 1) (Rebecca Rodriguez, Senior Planner, (210) 207-0120, Rebecca.Rodriguez@sanantonio.gov, Development Services Department)

Staff stated 37 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and there was no response from the Los Angeles Heights Neighborhood Association.

Barbara Gonzales, applicant, - is requesting the fence for privacy and submit signatures in favor from surrounding properties.

No Public Comment

Chair Oroian asked for a motion for item **BOA-22-10300060** as presented.

Manna made a **motion** for item **BOA-22-10300060** for approval.

Regarding Case No. **BOA-22-10300060**, I move that the Board of Adjustment grant a 2' special exception from the maximum 6' fence height to allow a solid screened fence to be 8' tall along the side property line, situated at 1423 Santa Anna, applicant being Mary Hernandez, 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 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 is intended to provide additional privacy to the property and surrounding area.
2. *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. An 8' wood privacy fence located along the side property line does not pose any adverse effects to the public welfare.
3. *The neighboring property will not be substantially injured by such proposed use.*
The Board finds that the fence will create additional privacy for the subject property and is unlikely to injure adjacent properties. Other solid screened fences were observed in the area therefore the request is unlikely to substantially injure any neighboring properties.
4. *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 2' in height will not alter the essential character of the district. An 8' fence is permitted by right along property lines that abut an alley, and the additional fence height is being requested along the side property line concluding that the essential character will not be changed.
5. *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: Cruz

In Favor: Spielman, Albert, Menchaca, Lynde, Cruz, Manna, Bragman, Delmer, Vasquez, Ozuna, Oroian

Opposed: None

Motion approved.

Item #6

BOA-22-10300062: A request by Bret Potter for a 2' special exception from the maximum 6' fence height to allow a solid screened fence to be 8' tall in the side yard, located at 9224 Jorwoods Drive. Staff recommends Approval. (Council District 6) (Rebecca Rodriguez, Senior Planner, (210) 207-0120, Rebecca.Rodriguez@sanantonio.gov, Development Services Department)

Staff stated 25 notices were sent out, 0 returned in favor, 1 returned in opposition, and the

Northwest Crossing Association of San Antonio is opposed.

Bret Potter, applicant, - looking to “replace like for like” on just the left/east side.

No Public Comment

Chair Oroian asked for a motion for item **BOA-22 -10300062** as presented.

Ozuna made a **motion** for item **BOA-22-10300062** for approval.

Regarding Case No. **BOA-22-10300062**, I move that the Board of Adjustment grant a 2' special exception from the maximum 6' fence height to allow a solid screened fence to be 8' tall in the side yard, situated at 9224 Jorwoods Drive, applicant being Bret Potter, 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 is intended to provide additional privacy to the property and surrounding area.

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. An 8' wood privacy fence located along the side property line does not pose any adverse effects to the public welfare.

C. The neighboring property will not be substantially injured by such proposed use.
The Board finds that the fence will create additional privacy for the subject property. There is currently an existing 8' fence on the property therefore it is unlikely that the request will injure adjacent 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 2' in height will not alter the essential character of the district. There are other wood privacy fences observed in the area therefore the essential character of the neighborhood will not be altered.

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: **Spielman, Albert, Menchaca, Lynde, Cruz, Manna, Bragman, Delmer, Vasquez, Ozuna, Oroian**

Opposed: **None**

Motion approved.

Item #7

BOA-22-10300067: A request by Ramona Arellano for a request for 1) a 3,800 square foot variance from the minimum 6,000 square foot lot size requirement to allow a 2,200 square foot lot, 2) a 4' variance from the minimum 5' side setback requirement to allow a structure to be 1' from the southern side property line, 3) a 18' variance from the minimum 20' rear setback requirement to allow a structure to be 2' from the rear property line, and 4) a 8' variance from the minimum 10' front setback requirement to allow a structure to be 2' from the front property line, located at 110 Clarendon. 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 25 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and there was no response from the Quintana Neighborhood Association.

Ramona Arellano, applicant, - stated they want to build a house so they do not have to travel so much.

No Public Comment

Chair Oroian asked for a motion for item **BOA-22-10300067**, as presented.

Chair Oroian made a **motion** for **BOA-22-10300067** for approval.

Regarding Case No. **BOA-22-10300067**, I move that the Board of Adjustment grant a request for 1) a 3,800 square foot variance from the minimum 6,000 square foot lot size requirement to allow a 2,200 square ft lot, 2) a 2' variance from the minimum 5' side setback requirement to allow a structure to be 3' from the side property line, 3) a 15' variance from the minimum 20' rear setback requirement to allow a structure to be 5' from the rear property line, and 4) an 5' variance from the minimum 10' front setback requirement to allow a structure to be 5' from the front property line, situated at 110 Clarendon, applicant being Ramona Arellano, 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 variance to the minimum lot size to allow a 2,200 square ft lot which does not appear to be contrary to the public interest. There are also variances

being requested for the rear, front, and southern side setback. The lot is currently vacant, and the proposed setbacks would not adversely affect the surrounding properties.

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

A literal enforcement of the ordinance would result in the lot being undevelopable with the current standards. The small size of the lot and configuration present unnecessary hardships to the development of the lot.

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 proposed variances appear to observe the spirit of the ordinance as they will allow for a home to be built on this small 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.*

It appears the request for the minimum lot size variance is not likely to negatively affect the adjacent neighboring property. The request for the setback variances are appropriate due to the small size of the lot.

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 and configuration of the lot.

Second: Bragman

In Favor: Spielman, Albert, Menchaca, Lynde, Cruz, Manna, Bragman, Delmer, Vasquez, Ozuna, Oroian

Opposed: None

Motion approved.

The Board of Adjustment meeting went into recess at 2:40 P.M. and reconvened at 2:50 P.M.

Item #8 **BOA-22-10300068:** A request by Freda Martin for 1) a 10' variance from the 20' garage setback requirement to allow a garage to be 10' from side property line and 2) a 7' variance from the 20' rear setback requirement to allow an attached garage to be 6' from the rear property line (with 7' credit from the alley), located at 203 Brettonwood Drive. Staff recommends Approval. (Council District 2) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista- vazquez@sanantonio.gov, Development Services Department)

Staff stated 27 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and no response from the Wilshire Homeowners Association.

Freda Martin, applicant, - stated she wants to add a garage to the back of the property.

No Public Comment

Chair Oroian asked for a motion for item **BOA-22-10300068**, as presented.

Manna made a **motion** for **BOA-22-10300068** for approval.

Regarding Case No. **BOA-22-10300068**, I move that the Board of Adjustment grant a request for 1) a 10' variance from the minimum 20' garage setback requirement to allow a garage to be 10' from side property line and 2) a 7' variance from the 20' rear setback requirement to allow an attached garage to be 6' from the rear property line (with 7' credit from the alley), situated at 203 Brettonwood Drive, applicant being Freda Martin , 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 proposing their garage to be setback 10' from side property line and 6' from the rear property line (with 7' credit from the alley). The variance requests do not appear contrary to the public interest due to the limited space existing on the property.

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 possibly postpone development or adapt the plans to meet the 20' rear/side setback requirement, which would result in unnecessary 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 variance for the garage addition 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 is not likely to negatively affect adjacent neighboring properties.

These distances are not likely to alter the essential character of the district as there is a garage with a similar approach near the 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 orientation of the proposed garage and the limited space in the rear yard of the property.

Second: Menchaca

In Favor: Spielman, Albert, Menchaca, Lynde, Cruz, Manna, Bragman, Delmer, Vasquez, Ozuna, Oroian

Opposed: None

Motion approved.

Item #9

BOA-22-10300070: A request by Cassandra Dearth for a 2' 5" variance from the minimum 5' side setback requirement to allow a structure with 1' 6" overhang and gutters to be 2' 5" from the side property line, located at 103 Vaughan Place. Staff recommends Approval.

(Council District 7) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@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 Maverick Neighborhood Association.

Staff gave a presentation and requested a continuance on behalf of the applicant.

Chair Oroian asked for a motion for item **BOA-22-10300070** for a continuance.

Ozuna made a **motion** for **BOA-22-10300070** for a continuance.

Second: Cruz

In Favor: Spielman, Albert, Menchaca, Lynde, Cruz, Manna, Bragman, Delmer, Vasquez, Ozuna, Oroian

Opposed: None

Motion approved for continuance to July 18, 2022.

Item #10

BOA-22-10300071: A request by Janelle R Chase for 1) a 2' variance from the minimum 5' side setback requirement to allow a structure to be 3' from the side property line, 2) a variance from the maximum 800 square foot and one bedroom requirement to allow an accessory detached dwelling unit to be 965 square feet with 2 bedrooms, located at 2127 W Woodlawn Ave. Staff recommends Approval. (Council District 7) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 15 notices were mailed to property owners within 200 feet, 0 returned in favor, and 1 returned in opposition, and there was no response from the Jefferson Neighborhood Association nor Woodlawn Lake Community Association.

Janell Chase, applicant, - stated they want more space for their family.

No Public Comment

Chair Oroian asked for a motion for item **BOA-22-10300071** as presented.

Manna made a **motion** for **BOA-22-10300071** for approval.

Regarding Case No. **BOA-22-10300071**, I move that the Board of Adjustment grant a request for 1) a 2' variance from the minimum 5' side setback requirement to allow an accessory structure to be 3' from the side property line, 2) a 165 square foot variance from the maximum 800 square foot and one bedroom requirement to allow an accessory detached dwelling unit to be 965 square feet with 2 bedrooms, situated at 2127 W Woodlawn, applicant being Janelle Chase, 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 variance to allow a structure to be 3' from the side property line. The portion of the structure encroaching into the side setback is just a covered parking area. The requested variances to allow an accessory detached dwelling unit to be 965 square feet with 2 bedrooms do not appear to be contrary to the public interest as the design was already given approval from HDRC and the structure will need to meet building code requirements.

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 structure having to be moved to meet the 5' minimum side setback requirement.

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

The requested variances will observe the spirit of the ordinance as there will be adequate space between the structure and the side property line and the construction will need to follow building code and inspections will need to be completed.

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 evidence that the requested variance would alter the essential character of the district. Many properties located along West Woodlawn Avenue appear to have garages and ADDUs close to or within the setback requirements due to the size of the lots, therefore the request would not alter the essential character of the neighborhood.

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

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

Second: **Bragman**

In Favor: **Spielman, Albert, Menchaca, Lynde, Cruz, Manna, Bragman, Delmer, Vasquez, Ozuna, Oroian**

Opposed: **None**

Motion approved.

Item #11

BOA-22-10300073: A request by Fernando DeLeon for a 4' 7" variance from the minimum 5' side setback requirement to allow a carport with 4" overhang and gutters to be 5" from the side property line, located at 822 North Cherry Street. Staff recommends Approval. (Council District 2) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff mentioned 24 notices had been mailed out, 0 returned in favor, 0 returned in opposition, and there was no response from the Dignowity Hill Neighborhood Association.

Fernando DeLeon, applicant, - stated they were repairing a house and the carport needed more work than anticipated.

Public Comment:

Stephanie Martinez, 818 N Cherry, stated she wants him to change the level of the carport because it will damage her property.

Chair Oroian asked for a motion for item **BOA-22-10300073** as presented.

Ozuna made a **motion** for **BOA-22-10300073** for approval.

Regarding Case No. **BOA-22-10300073**, I move that the Board of Adjustment grant a request for a 4' 7" variance from the minimum 5' side setback requirement to allow a carport with 4" overhang and gutters to be 5" from the side property line, situated at 822 Cherry Street, applicant being Fernando DeLeon, 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 variance to allow a carport with a 4" overhang and gutters to be 5" from the side property line, which 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 carport having to be moved to meet the 5' minimum side setback requirement. Staff finds an unnecessary hardship due to the size of the lot and the small amount of driveway width available to fit a vehicle.

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. Due to the existing properties and locations of other carports this 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 does not find evidence that the requested variance would alter the essential character of the district. Properties located along Cherry Street all maintain carports within the distance from the side property line due to the size of the lots.

7. *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 limited size of the lot and the width available for a carport. The variance request is not merely financial.

Second: Manna

In Favor: **Spielman, Albert, Menchaca, Lynde, Cruz, Manna, Bragman, Delmer, Vasquez, Ozuna, Oroian**

Opposed: **None**

Motion approved.

Item #12

BOA-22-10300079: A request by Alan Neff for a 184 square foot variance from the maximum 40% allowance of 530 square feet to allow an accessory dwelling unit to be 714 square feet, located at 312 W. Agarita Avenue. Staff recommends Approval. (Council District 1) (Rebecca Rodriguez, Senior Planner, (210) 207-0120, Rebecca.Rodriguez@sanantonio.gov, Development Services Department)

Staff mentioned 18 notices had been mailed out, 2 returned in favor, 0 returned in opposition, and there was no response from the Monte Vista Neighborhood association.

Alan Neff, Representative, - stated the family wants to add a dwelling unit for family space.

Public Comment:

Voicemail:

Tony Garcia, 243 E Huisache- stated the Monte Vista Historical Association is opposed.

Chair Oroian asked for a motion for item **BOA-22-10300079** as presented.

Ozuna made a **motion** for **BOA-22-10300079** for approval.

Regarding Case No. **BOA-22-10300079**, I move that the Board of Adjustment grant a request for a 184 square foot variance from the maximum 40% allowance of 530 square feet to allow an accessory detached dwelling unit to be 714 square feet, situated at 312 West Agarita Avenue, applicant being Alan Neff, 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 to allow an accessory dwelling to exceed the maximum 40% allowance is not contrary to the public interest as there is currently an existing accessory dwelling unit on the property that exceeds it.

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 owner would have to redesign plans which would make the structure significantly smaller.

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

The accessory dwelling unit will only exceed the 40% allowance by 184 square feet and will meet all other code requirements, therefore the spirit of the ordinance will be observed.

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 a 184 square foot variance 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. There are accessory structure and accessory dwellings found throughout the block and neighborhood.

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

The Board finds that the plight of the property owner is sought due to the unique circumstances existing on the property. Due to the property being located within a historic district, expansion of the main residence may be limited which poses a limit on the size of an accessory detached dwelling unit. The variance request is not merely financial.

Second: **Cruz**

In Favor: **Spielman, Albert, Menchaca, Cruz, Manna, Bragman, Delmer, Vasquez, Ozuna, Oroian**

Opposed: **Lynde and Manna**

Motion approved.

Item #13

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: **Spielman, Albert, Menchaca, Lynde, Cruz, Manna, Bragman, Delmer, Vasquez, 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