

City of San Antonio



Board of Adjustment Minutes

Development and Business Services Center
1901 South Alamo

July 18, 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, Kaplan, Vasquez, Ozuna, Oroian

- **Absent:** Britton, Teel, 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-22-10200077: Postponed**

Item #2 **(Continued from 06/06/22) 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)

Jaime Sanchez, applicant, - requested a continuance to the September 19, 2022 meeting.

No Public Comment

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

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

Second: **Bragman**

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

Opposed: **None**

Motion approved for continuance.

Item #3 **BOA-22-10300076:** A request by Claudia Romero for a variance from the maximum 10' accessory structure height requirement in the Jefferson NCD design standards to allow an 11' carport, located at 154 Rosemont. Staff recommends Denial. (Council District 7) (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, 3 returned in favor, 0 returned in opposition, and the Jefferson neighborhood association is in favor.

Claudia Romero, applicant,- stated she got all the permits, passed an inspection, needed another inspection, and failed.

No Public Comment

Chair Oroian asked for a motion for **BOA-22-10300076**

Bragman made a **Motion** for **BOA-22-10300076** for approval.

Regarding Case No. BOA-22-10300076, I move that the Board of Adjustment grant a request for a variance from the Jefferson Neighborhood Conservation District design standards to allow a carport to be 11' in height, situated at 154 Rosemont Drive, applicant being Claudia Romero, 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 applicants request to allow a carport to be 11' in height will not be contrary to the public's interest and Jefferson Neighborhood Conservation District Design Standards of a max carport height of 10' due to the 1' difference in height being negligible.
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 conform the Jefferson Neighborhood Conservation District Design Standards of a max height of 10' for a carport. This may require a possible demolition of the carport to conform and may cause 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. A request for a variance from the Jefferson Neighborhood Conservation District design standards to allow a carport to be 11' in height will observe the spirit of the ordinance. The variance for the carport was possibly erected for protection of the weather elements and for protection of the items that will be placed under the structure. This 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 Jefferson Neighborhood Conservation District design standards to allow a carport to be 11' in height 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 the possible error of height measurement when constructing the carport.

Second: **Manna**

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

Opposed: **None**

Motion approved.**Item #4**

BOA-22-10300139: A request by Patrick Christensen for 1) a 5' variance from the 10' side setback requirement for a reverse corner lot to allow a 5' setback along West Ashby and 2) a variance from the Beacon Hill Neighborhood Conservation District standards to allow a structure to be setback 5' from the side property line along West Ashby, located at 1102 West Ashby Place. Staff recommends Approval. (Council District 1) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 20 notices were mailed to property owners within 200 feet, 3 returned in favor, 0 returned in opposition, 1 outside of the 200 feet, and the Beacon Hill Neighborhood Association is in favor.

Patrick Christensen, applicant, - stated they are trying to develop an irregular lot.

No Public Comment

Chair Oroian asked for a motion for item **BOA-22-10300139** as presented.

Ozuna made a **motion** for item **BOA-22-10300139** for approval.

Regarding Case No. BOA-22-10300139, I move that the Board of Adjustment grant a request by Patrick Christensen for 1) a 5' variance from the 10' side setback requirement for a reverse corner lot to allow a 5' setback along West Ashby and 2) a variance from the Beacon Hill Neighborhood Conservation District standards to allow a structure to be setback 5' from the side property line along West Ashby, situated at 1102 West Ashby Avenue, 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 side setback requirement for a reverse corner lot to allow for a 5' setback along the side property line which is not found 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 building the duplex 10 to 20 feet from the side property line, which would leave little to no room for development. The lot size would not accommodate the proposed structure based on the current site plan, which presents 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 side setback still provides a significant buffer from the property line. The request appears to 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.*
If granted, the structure will have a 5' setback from the side property line, which is not likely to alter the essential character of the district. The lot has been vacant, and the variances will allow for more flexibility with the development of 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. The circumstances were not created by the owner and do not appear to be merely financial in nature.

Second: **Bragman**

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

Opposed: **None**

Motion approved.

Item #5

BOA-22-10300090: A request by Jose Garza for 1) a variance from the minimum parking requirement of 7 parking spaces to allow a business to have 6 parking spaces, 2) a 9' variance from the minimum 40' driveway access requirement to allow a driveway to be 31', 3) a 75' variance from the 125' minimum driveway length to allow a driveway to be 50', and 4) a 10' variance from the 20' maximum setback to allow a structure to be 30' from the front property line, located at 1330 West Mulberry Avenue. Staff recommends Approval. (Council District 1) (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, and there was no response from the Keystone Heights Neighborhood Association.

Jose Garza, applicant, - stated he wants to use this lot for a small office space for two in-office employees and no customers visiting the office.

No Public Comment

Chair Oroian asked for a motion for item **BOA-22-10300090** as presented.

Manna made a **motion** for item **BOA-22-10300090** for approval.

Regarding Case No. BOA-22-10300090, I move that the Board of Adjustment grant a request for 1) a variance from the minimum parking requirement of 7 parking spaces to allow a proposed business to have 6 parking spaces, 2) a 9' variance from the minimum 40' driveway access requirement to allow a driveway to be 31', 3) a 75' variance from the 125' minimum driveway length to allow a driveway to be 50', and 4) a 10' variance from the 20' maximum to allow a structure to be 30' from the front property line., situated at 1330 West Mulberry Avenue, applicant being Jose Garza, 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 1) a variance from the minimum parking requirement of 7 parking spaces to allow a proposed business to have 6 parking spaces, 2) a 9' variance from the minimum 40' driveway access requirement to allow a driveway to be 31', 3) a 75' variance from the 125' minimum driveway length to allow a driveway to be 50', and 4) a 10' variance from the 20' maximum to allow a structure to be 30' from the front property line. The requested variances will not be contrary to the public's 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 meet the minimum parking, lot requirements and setback for that the applicant may have to alter the site plan to conform to the requirements.

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 for the minimum parking, driveway access and maximum front setback may not negatively affect the surrounding area as DSD Traffic reviewed and did not raise concerns.

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 requesting lot is not likely to negatively affect the adjacent neighboring properties due to DSD Traffic review not raising concerns about the driveway length and access

The minimum parking and maximum setback variance request will not injure the area or alter the 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 and location of the lot.

Second: **Kaplan**

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

Opposed: **None**

Motion approved.

Item #6

BOA-22-10300008: A request by Hillard Soward for a 3' variance from the maximum 6' fence height requirement to allow a 9' solid screen fence along the rear property line, located at 5215 Dove Nest. Staff recommends Denial. (Council District 6) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 24 notices were sent out, 4 returned in favor, 5 returned in opposition, and there was no response from the Misty Oaks Neighborhood Association.

Martin Soward, applicant, - stated he wanted the fence for privacy from the back neighbor's cameras.

Public Comment:

Ignacio Rodriguez, - in opposition

Mary Rodriguez, - in opposition

Cynthia Sedillo, - in opposition

Gracey Cantu, - in favor

Voicemails:

Nicole Anderson, 5206 Dove Circle Street, - in favor

Valerie, 7807 Dove Flight, - in favor

Chair Oroian asked for a motion for item **BOA-22-10300008** as presented.

Ozuna made a **motion** for item **BOA-22-10300008** for approval.

Regarding Case No. **BOA-22-10300008**, I move that the Board of Adjustment grant a request for a request for a variance to allow a 9' solid screen fence along the rear property line., situated at 5215 Dove Nest, applicant being Hillard Soward, 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 applicants request for a 9' fence will provide safety for this property and will not alter the appearance of neighborhood.
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 remove the fence and conform to the 6' fence height requirement which would 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. A request for a variance to allow a 9' solid screen fence along the rear property line will observe the spirit of the ordinance
The constructed fence was possibly done for safety concerns of the applicant. This 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 to allow a 9' solid screen fence along the rear property line is likely to not negatively affect the adjacent neighboring property and promote safety.
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 slight elevation change found on the property.

Second: Cruz

Bragman made a friendly amendment to reduce the 9' fence to 8' which cannot be attached to the current standing fence and it was accepted by commissioners Ozuna and

Cruz.

In Favor: **Ozuna, Bragman, Cruz,**

Opposed: **Spielman, Albert, Menchaca, Vasquez, Lynde, Manna, Kaplan, Oroian**

Motion failed 8-3.

The Board of Adjustment meeting went into recess at 2:29 P.M. and reconvened at 2:36 P.M.

Item #7

BOA-22-10300080: A request by Rene LaFuentes for a 1,500 square foot variance from the maximum 2,500 square foot allowance to allow an accessory structure to be 4,000 square feet, located at 866 W Villaret. Staff recommends Denial. (Council District 4) (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 is no registered neighborhood association.

Rene LaFuentes, applicant- stated they want the structure to store show cars and materials for future home building.

Maria Sandoval, property owner- stated there would be financial hardship because a lot money has already been put into it.

No Public Comment

Chair Oroian asked for a motion for item **BOA-22-10300080**, as presented.

Ozuna made a **motion** for **BOA-22-10300080** for approval.

Regarding Case No. **BOA-22-10300080**, I move that the Board of Adjustment grant a request for a 1,500 square foot variance from the maximum 2,500 square foot allowance to allow a detached accessory structure to be 4,000 square feet., situated at 866 W Villaret, applicant being Rene Lafuentes, 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 for a 1,500 square foot variance from the maximum 2,500 square foot allowance to allow a detached accessory structure to be 4,000 square feet, 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 applicant having to only construct the detached accessory structure to be 2,500 square feet. Staff finds an unnecessary hardship due to the size of the lot for an detached accessory structure to be 4,000 square feet.

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 detached accessory structure will be following the required setbacks from property lines, and 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. Due to the size of the lots in the area the detached accessory structure would be constructed behind the main structure on the property and would 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 existing on the property. The property is situated in an area with large lots and in a rural area. The variance request is not merely financial.

Second: **Manna**

In Favor: **Albert, Lynde, Cruz, Bragman, Kaplan, Vasquez, Ozuna, Oroian**

Opposed: **Spielman, Menchaca, Manna**

Motion failed 8-3.

Commissioner Kaplan left the boardroom at 2:59 P.M.

Item #8

BOA-22-10300084: A request by Cynthia Neal for a Special Exception for a One Operator Beauty/Barber Shop, located at 103 Gazel Dr. Staff recommends Approval. (Council District 1) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 25 notices were mailed to property owners within 200 feet, 2 returned in favor,

0 returned in opposition, and no response from the Dell View Area Neighborhood Association.

Cynthia Neal, applicant, - stated she would like to renew her beauty shop license.

No Public Comment

Chair Oroian asked for a motion for item **BOA-22-10300084**, as presented.

Bragman made a **motion** for **BOA-22-10300084** for approval.

Regarding Case No. **BOA-22-10300084**, I move that the Board of Adjustment grant a request for a special exception to allow a one-operator beauty salon/barber shop, situated at 103 Gazel, applicant being Cynthia Neal, 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 single operator barber shop beauty salon. The Barber shop/beauty salon is intended to be operated by a single owner and will be in harmony with the spirit and purpose of the ordinance.
2. *The public welfare and convenience will be substantially served.*
The applicant is proposing to operate a Barber Shop/Beauty Salon located at the residential property. The public welfare and convenience will be substantially served with this special exception.
3. *The neighboring property will not be substantially injured by such proposed use.*
The Barber Shop / Beauty Salon will not disrupt the privacy for the subject property and is highly unlikely to injure adjacent properties. The proposed hours of operation are Monday from 9:00am-3:00pm, Wednesday 9:00am-6:00pm, Thursday 9:00am-11:00am, Friday 8:00am-3:00pm, Saturday 8:00am-2:00pm and closed Tuesdays and Sundays.
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 Barbershop / Beauty Salon will not alter the essential character of the district as the single-family dwelling will remain to appear as such.
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 and the option to operate a single-operator Barber/Beauty Salon. The requested special exception will not weaken the general purpose of the district.

Commissioner Kaplan rejoined the boardroom at 3:04 P.M.

Second: Cruz

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

Opposed: None

Motion approved.

Item #9

BOA-22-10300086: A request by Jorge Ramos for a Special Exception for a One Operator Beauty/Barber Shop, located at 60 Vaughan Place. Staff recommends Approval. (Council District 7) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department) Staff stated 87 notices were mailed to property owners within 200 feet, 1 returned in favor, and 0 returned in opposition, and there was no response from the Maverick Neighborhood Association.

Jorge Ramos, applicant, - stated his wife is the one who cuts the hair, but he applied, and they would like to renew the license.

Public Comment:

Voicemails: Genry Thomas, 61 Vaughan Place,- in favor

Chair Oroian asked for a motion for item **BOA-22-10300086**

Cruz made a **motion** for **BOA-22-10300086**

Regarding Case No. **BOA-22-10300086**, I move that the Board of Adjustment grant a request for a special exception to allow a one-operator beauty salon/barber shop, situated at 60 Vaughan Place, applicant being Jorge Ramos, 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 single operator barber shop beauty salon. The Barber shop/beauty salon is intended to be operated by a single owner and will be in harmony with the spirit and purpose of the ordinance.
2. *The public welfare and convenience will be substantially served.*
The applicant is proposing to operate a Barber Shop/Beauty Salon located at the residential property. The public welfare and convenience will be substantially served

with this special exception.

3. *The neighboring property will not be substantially injured by such proposed use.*
The Barber Shop / Beauty Salon will not disrupt the privacy for the subject property and is highly unlikely to injure adjacent properties. The proposed hours of operation are Monday through Saturday from 9:00 am to 6:00 pm, by appointment only.
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 Barbershop / Beauty Salon will not alter the essential character of the district as the single-family dwelling will remain to appear as such.
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 and the option to operate a single-operator Barber/Beauty Salon. The requested special exception will not weaken the general purpose of the district.

Second: **Kaplan**

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

Opposed: None

Motion approved.

Commissioner Kaplan left the meeting and Commissioner Manna has recused himself at 3:13 P.M.

Item #10

BOA-22-10300088: A request by Juan Flores for 1) a variance from the fence materials to allow for a corrugated metal fence along the side property line and 2) a 3' special exception from the maximum 3' fence height to allow a solid screened fence to be 6' in the front yard, located at 6816 Whitby Road. Staff recommends Approval. (Council District 7) (Rebecca Rodriguez, Senior Planner, (210) 207-0120, Rebecca.Rodriguez@sanantonio.gov, Development Services Department)

Staff stated 13 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition, and the Alamo Farmsteads Babcock Road Neighborhood Association is in support.

Juan Flores, applicant, - stated they wanted to build a sustainable natural looking fence for privacy and security.

Public Comment:
Stan Dodd- in opposition

Chair Oroian asked for a motion for item **BOA-22-10300088** as presented.

Ozuna made a **motion** for **BOA-22-10300088** for approval.

Regarding Case No. **BOA-22-10300088**, I move that the Board of Adjustment grant a variance from the fence materials to allow a corrugated metal fence in the side yard, situated at 6816 Whitby Road, applicant being Juan Flores, 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 side yard of the subject property. It is not easily visible from the public right-of-way therefore 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 fence with a permitted material. The property is susceptible to high vegetation and maintenance which would 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 request is to install a corrugated metal fence along the side property line for added security and durability. The fence contains protected edges thus the spirit of the ordinance is being 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.*
Staff does not find the request for the corrugated metal to substantially injure adjacent properties. The fence is stained a natural color and 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.

Second: **Bragman**

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

Opposed: **None**

Motion approved.

Chair Oroian asked for a motion for item **BOA-22-10300088** as presented.

Cruz made a **motion** for **BOA-22-10300088** for approval.

Regarding Case No. **BOA-22-10300088**, I move that the Board of Adjustment grant a 3' special exception from the maximum 3' fence height to allow a 6' solid screened fence in the front yard that is no closer than 55' from the front property line, situated at 6816 Whitby Road, applicant being Juan Flores, 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 3' in fence height will only be located no closer than 55' along the front side property line at and is intended to provide additional security and privacy.
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. A 6' fence along the side property line does not pose any adverse impacts 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 security for the subject property. It is not noticeable from the right-of-way therefore unlikely to substantially injure 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 height will not alter the essential character of the district. The 6' fence will only surpass the front façade by a few feet with the rest of the front fence being a permitted fencing material and height.
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: **Oroian**

Commissioner Oroian made a friendly amendment to the motion to include “to allow a 6’ solid screened fence in the front yard to be no closer than 55’ to the front property line”

Commissioner Cruz accepted the amendment.

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

Opposed: **None**

Motion approved.

Commissioner Manna re-entered the boardroom at 3:38 P.M.

Item #11

BOA-22-10300089: A request by Lucas Huckleberry for a 9’ variance from the minimum 10’ front setback to allow a carport to be 1’ from the front property line, located at 730 Cravens Avenue. Staff recommends Approval. (Council District 3) (Rebecca Rodriguez, Senior Planner, (210) 207-0120, Rebecca.Rodriguez@sanantonio.gov, Development Services Department)

Staff mentioned 31 notices had been mailed out, 1 returned in favor, 0 returned in opposition, and there was no response from the Highland Hills Neighborhood Association.

Lucas Huckleberry, applicant, - stated he would like to keep the carport up.

No public Comment:

Chair Oroian asked for a motion for item **BOA-22-10300089** as presented.

Manna made a **motion** for **BOA-22-10300089** for approval.

Regarding Case No. **BOA-22-10300089**, I move that the Board of Adjustment grant a request for a 9’ variance from the minimum 10’ front setback to allow a carport to be 1’ from the front property line, situated at 730 Cravens, applicant being Lucas Huckleberry, 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 an attached carport to be 1’ from the front property line. The

structure will meet the minimum side setback thus 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, a carport could not be constructed on the property.

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

The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. The carport will not encroach onto neighboring properties and does not pose any fire/safety hazards which observes 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.*

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. There will be space between the carport and street curb and other carports were observed in the 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.*

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 property has limited spacing in the front which prevents the carport to maintain the 10' front setback requirement.

Second: Cruz

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

Opposed: None

Motion approved.

Item #12

Consideration and recommendation of amendments to Chapter 35 of the Municipal Code, the Unified Development Code, affecting all Articles and Appendices. These amendments are

part of the 2021 UDC update program. (Logan Sparrow, Policy Administrator, Development Services Department, (210) 207-8691, Logan.Sparrow@sanantonio.gov)

Consent Items

Public Comment:

Cynthia Spielman, 900 W Woodlawn – expressed multiple concerns overall

Dawn Davies, author of 25-1 – stated working to improve lighting in San Antonio and Military lighting overlay district.

Written public comment:

5-22 received 48 in support 0 in opposition

5-23 received 48 in support 0 in opposition

16-2 received 59 in support 20 in opposition

16-8 received 52 in support 0 in opposition

16-10 received 52 in support 0 in opposition

25-1 received 79 in support 0 in opposition

26-1 received 49 in support 0 in opposition 1 neutral

Voicemails:

Anna Smitherman, 13207 North Hunters Circle - in opposition of 16-2

Michelle Mitchell, 13202 North Hunters Circle – in opposition of 16-2

Patricia Moreno, 4330 Apple Tree Woods – in opposition of 16-2

Lourdes Garcia, 13302 Hunters Hollow - in opposition of 16-2

Chair Oroian asked for a motion for **amendments 5-22, 5-23, 5-46, 9-2, 9-3, 16-2, 16-8, 16-10 25-1.**

Bragman made a **motion** for approval of **amendments 5-22, 5-23, 5-46, 9-2, 9-3, 16-2, 16-8, 16-10 25-1.**

Second: Manna

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

Opposed: **None**

Motion approved.

Individual Items

Amendment 9-1

Logan Sparrow, Policy Administrator, stated the amendment was to include language to the four asterisks **** to the primary arterial, secondary arterial, and collector columns.

Chair Oroian asked for a motion for amendment 9-1

Cruz made a **motion** for approval of amendment 9-1

Second: **Menchaca**

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

Opposed: **None**

Motion approved.

Amendment 26-1

Logan Sparrow, Policy Administrator, stated the amendment was for regulations of gas stations when they abut homes, schools, day cares, and assisted living spaces.

Public Comment:

Bianca Maldonado, representative, - expressed health issues with increasing pump numbers, in favor.

Chair Oroian made an amendment to change the language from “shall” to “may,” and to remove “building or” and to add “storage or dispensary.”

Chair Oroian made a motion to approve amendment 26-1.

Second: **Cruz**

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

Opposed: **Bragman**

Motion approved.

Item #13

Approval of the minutes from the Zoning Board of Adjustment meeting on June 6, 2022.

Bragman made a **motion** for Approval of the June 6, 2022 minutes.

Second: **Cruz**

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

Opposed: **None**

Minutes Approved.

Adjournment

There being no further business, the meeting was adjourned at 4:32 P.M.

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary