

City of San Antonio



Board of Adjustment Minutes

Development and Business Services Center
1901 South Alamo

November 21, 2022

1:00PM

1901 S. Alamo

1:00 P.M. - Call to Order**- Roll Call**

Present: Spielman, Albert, Menchaca, Manna, Kaplan, Ozuna, Bragman Vasquez, Miess, Lynde, and Oroian

- Absent: Cruz and Zuniga

2 Translators from SeproTec were present to assist with translating.

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

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

Item #1

BOA-22-10300207: A request by Killen, Griffin & Farrimond, PLLC for an Appeal regarding Decision by Deputy Director in connection with Notice of Intent to Revoke Certificate of Occupancy, located at 3442 Belgium Lane. Staff recommends Denial. (Council District 2) (Mirko Maravi, Principal Planner, (210) 207-0107, Mirko.Maravi@sanantonio.gov, Development Services Department)

Staff stated 25 notices had been mailed out, 0 returned in favor, 2 returned in opposition, 5 outside 200' in opposition, and there is no response from the United Homeowners Improvement Association and Willow Woods Neighborhood Association is opposed.

Robb Killen, representative, - stated the history of the permitting and pertinent facts to the case.

Charles, area Manager, - stated the center of the dump to the residences is 700 yards.

Public Comment:

Beverly Towns yielding her time to Oscar Vicks, is in opposition
Dolores Williams, is in opposition
Harold Williams, yielding his remaining time to Mr. Jones
Joe Malone, is in opposition
Rose Hill, is in opposition
B Galloway is yielding her time to Jacquelyn Ali
Vanessa Tate is yielding time to Jesse Medeles
J.L. Bomar, is in opposition
Shirleta Plummer, is in opposition
Jacquelyn Ali, is in opposition
Patrick Jones is yielding his time to Alonzo Jones
Jesse Medeles, is in opposition
Cliff Cedino, is in opposition
Alonzo Jones, is in opposition

Voicemails:

Charlotte Forney, is in opposition
Cassandra Mullen, is in opposition
Gerry Hoover, is in opposition
Christian Daniel, is in opposition
Mr. and Mrs. Ralph Vaveramon, in opposition
Debby Robinson, is in opposition
Kenbria Robinson, is in opposition
Regina Williams, is in opposition
Karen, is in opposition
Reverend Kirsten Hancock, (call dropped before position is stated)
Gladys Willson, is in opposition
Regina Sistrone, is in opposition
Lisa Brown, is in opposition

Chair Oroian asked for a motion for item **BOA-22-10300207** as presented.

Kaplan made a **motion** for item **BOA-22-10300207** for approval.

Regarding Case No. BOA 21-10300207, I move that the Board of Adjustment grant an Appeal regarding Decision by Deputy Director in connection with Notice of Intent to Revoke Certificate of Occupancy, situated at 3442 Belgium Lane, applicant being Killen, Griffin & Farrimond, PLLC.

Second: Spielman

In Favor: None

Opposed: Spielman, Albert, Menchaca, Vasquez, Lynde, Manna, Bragman, Kaplan, Miess, Ozuna, and Oroian

Motion fails.

The Board of Adjustment Meeting went into recess at 3:40 and reconvened at 3:51.

Item #2

(Continued from 10/17/22) BOA-22-10300132: A request by Gerado Urteaga for a 1' variance from the Beacon Hill Neighborhood Conservation District maximum 4' predominantly open fence design standards to allow a predominantly open fence to be 5' in the front yard that includes a gate, located at 1136 W French Place. Staff recommends Denial. (Council District 1) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 26 notices had been mailed out, 1 returned in favor, 0 returned in opposition, and the Beacon Hill Neighborhood Association is opposed.

Gerardo Urteaga, applicant, - stated they bought this house with intentions to redesign the landscaping and want the fence closer for more security.

Public Comment:**Voicemails:**

Daniel Hubbling, is in opposition

Chair Oroian asked for a motion for item **BOA-22-10300132** as presented.

Manna made a **motion** for item **BOA-22-10300132** for approval.

Regarding Case No. BOA-22-10300132, I move that the Board of Adjustment grant a request for a 1' variance from the Beacon Hill Neighborhood Conservation District maximum 4' predominantly open fence design standards, situated at 1136 West French Place, applicant being Gerado Urteaga, 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 Beacon Hill NCD front yard fence standards was adopted to maintain the character of the area. The variance to the NCD standards is for the front yard fence and is not contrary to the public interest and the surrounding neighbors.

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

It would result for the fence to conform to the 4' maximum height requirement and a possible demolition of the fence. This presents an unnecessary hardship.

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

By granting the variance the spirit of the ordinance will be observed as there are similar style fences in the 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.*

This fence is not likely to negatively affect the adjacent neighboring property as the fence neighbors a local street with similar fences.

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 style of the fence is very similar to the surrounding area and the district that the property is located in. The variance request is not merely financial.

Second: Ozuna

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

Opposed: None

Motion passes.

Chair Oroian asked for a motion regarding the gate for **BOA-22-10300132** as presented.

Ozuna made a **motion** for item **BOA-22-10300132** for approval.

Regarding Case No. BOA-22-10300132, I move that the Board of Adjustment grant a request for a 1' variance from the Beacon Hill Neighborhood Conservation District to allow a gate to be 5' in the front yard, situated at 1136 West French Place, applicant being Gerado Urteaga, 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 Beacon Hill NCD front yard fence standards was adopted to maintain the character of the area. The variance to the NCD standards is for the front yard fence and is not contrary to the public interest and the surrounding neighbors.

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

It would result for the fence to conform to the 4' maximum height requirement and a possible demolition of the fence. This presents an unnecessary hardship.

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

By granting the variance the spirit of the ordinance will be observed as there are similar style fences in the 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.*

This fence is not likely to negatively affect the adjacent neighboring property as the fence neighbors a local street with similar fences.

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 style of the fence is very similar to the surrounding area and the district that the property is located in. The variance request is not merely financial.

Second: Manna

In Favor: Menchaca, Vasquez, Bragman, Miess, Ozuna, and Oroian

Opposed: Spielman, Albert, Lynde, Manna, and Kaplan

Motion fails

Item #3

(Continued from 10/17/22) BOA-22-10300154: A request by Antonio Martel for 1) a 1,160 square foot variance from the minimum 4,000 square foot lot size requirement to allow a lot size of 2,840 square feet, 2) a 1' 9" variance from the minimum 5' side setback requirement to allow a structure to be 3' 3" from the side property line, 3) a 2' 5" variance from the

minimum 5' side setback requirement to allow a carport to be 2' 7" from the side property line, and 4) a 12' 10" variance (with 5' credit from the alley) from the minimum 20' rear setback requirement to allow a structure to be 2' 2" from the rear property line, located at 318 Utah Street. Staff recommends Approval. (Council District 2) (Rebecca Rodriguez, Senior Planner, (210) 207-0120, Rebecca.Rodriguez@sanantonio.gov, Development Services Department)

Staff stated 37 notices had been mailed out, 0 returned in favor, 0 returned in opposition, and the Denver Heights Neighborhood Association is in support (Subject to carport changes).

Jose Valdez, applicant, - stated he reached out to Denver Heights and is working with them to get this approved.

No Public Comment

Chair Oroian asked for a **motion** for **BOA-22-10300154** as presented

Bragman made a motion for **BOA-22-10300154** for approval

Regarding Case No. BOA-22-10300154, I move that the Board of Adjustment grant a request for 1) a 1,160 square foot variance from the minimum 4,000 square foot lot size requirement to allow a lot size of 2,840 square feet, 2) a 1' 9" variance from the minimum 5' side setback requirement to allow a structure to be 3' 3" from the side property line, 3) a 1' 8" variance from the minimum 5' side setback requirement to allow a carport to be 3' 4" from the side property line, 4) 2' 10" variance (with 5' credit from the alley) from the minimum 10' rear setback requirement to allow a structure to be 2' 2" from the rear property line, situated at 318 Utah Street, applicant being Antonio Martel, 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 because*

it will allow the redevelopment of an existing dilapidated single-family residence on a small lot.

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

it would result in the inability to redevelop the property or add any new structures as they would not be able to meet the setback requirements or minimum lot size.

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

the requested variance would allow the redevelopment of the property while still maintaining adequate spacing to adjacent properties.

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*

as the property is zoned “RM-4” and the use of the property is a single-family dwelling.

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 because*

the property is located within the original 36 square miles of San Antonio where smaller lots are commonly found. Numerous non-conforming structures were observed in the immediate area that do not meet the current setback requirements.

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.*

Due to the current configuration of the lot, it cannot maintain the minimum lot size requirement. The setback reduction to the sides and rear would help accommodate a new carport and addition to the residence.

Second: Manna

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

Opposed: None

Motion passes.

Item #4

BOA-22-10300175: A request by Sean Oslin for 1) a 4'-6" variance from the minimum 5' side setback requirement to allow a carport to be 6" from the side property line, and 2) a request for a 2' special exception from the 6' maximum fence height to allow an 8' solid screen fence in the side and rear yard, located at 126 Kansas Street. Staff recommends Denial for the Side Setback. Staff recommends Approval for the Fence Height Special Exception. (Council District 2) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 36 notices had been mailed out, 0 returned in favor, 0 returned in opposition, and there is no response from the Alamodome Gardens nor Denver Heights Homeowner Association.

Sean Oslin, applicant, - stated he lives in one of the oldest parts in San Antonio and the only way to have a carport like others in the area is all the way up to the lot line. He also amended his application to include gutters.

No Public Comment

Chair Oroian asked for a **motion** for **BOA-22-10300175** as presented

Manna made a motion for **BOA-22-10300175** for approval

Regarding Case No. **BOA-22-10300175**, I move that the Board of Adjustment grant a request for 1) a 4'-6" variance from the minimum 5' side setback requirement to allow a carport to be 6" from the side property line and limiting the variance to be only forward of the house, situated at 126 Kansas Street, applicant being Sean Oslin 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:

Criteria for Review – Side Setback Variance

According to Section 35-482(e) of the UDC, in order for a variance to be granted, the applicant must demonstrate all of the following:

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

The variance to the side setback to allow a structure to be 6" from the side property line. The structure will meet the front setback requirement and does not appear to be contrary to the public interest.

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

Staff finds an unnecessary hardship since the lot is too small to allow the development of the structure with this requirement.

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

The structures have not been constructed and the proposed setback is 6" from the side property line. The spirit of the ordinance will be observed as there will still be reasonable space between the structure and neighboring properties.

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, specifically including the gutters.

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

Because of the width of the lot and configuration of the existing residence, maintaining a 6" side setback is appropriate for the area. The request is not merely financial.

Second: Bragman

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

In Opposition: None

Motion passes.

Chair Oroian asked for a **motion** regarding the fence for **BOA-22-10300175** as presented

Manna made a motion for **BOA-22-10300175** for approval

Regarding Case No. **BOA-22-10300175**, I move that the Board of Adjustment grant a request for 2) a request for a 2' special exemption from the 6' maximum fence height to allow an 8' solid screen fence in the side and rear yard, situated at 126 Kansas Street, applicant being Sean Oslin 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:

Criteria for Review – Fence Height

According to Section 35-482(h) of the UDC, in order for a special exception to be granted, the Board of Adjustment must find that the request meets each of the five following conditions:

- 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 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 located along the side and rear property and is exceeding the maximum height requirement by 2'. The fence is solid screened would serve the public welfare and convenience.

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

The fence will create enhanced security and privacy for the subject property but it 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 section of side and rear yard fence will not alter the essential character of the district.

E. The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district.

The current zoning permits the current use of a single-family home. The requested special exception will not weaken the general purpose of the district.

Second: Kaplan

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

In Opposition: None

Motion passes.

Item #5

BOA-22-10300176: A request by Michael Perez for a 5' variance from the minimum 10' reverse corner lot side setback requirement to allow a structure to be 5' from the side property line, located at 923 South Mesquite Street. Staff recommends Approval. (Council District 2) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 23 notices had been mailed out, 0 returned in favor, 0 returned in opposition, and there is no response from Denver Heights Homeowners Association.

Michael Perez, applicant, stated he is requesting a 5' variance from the reverse corner lot.

No Public Comment

Chair Oroian asked for a **motion** for item **BOA-22-10300176** as presented

Ozuna made a motion for item **BOA-22-10300176** for approval.

Regarding Case No. **BOA-22-10300176**, I move that the Board of Adjustment grant a request for a 5' variance from the minimum 10' reverse corner lot side setback requirement to allow a structure to be 5' from the side property line, situated at 923 South Mesquite Street, applicant being Michael Perez, 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:

Criteria for Review – Side Setback Variance

According to Section 35-482(e) of the UDC, in order for a variance to be granted, the applicant must demonstrate all of the following:

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

The variance to the side setback to allow a structure to be 5' from the side property line. The structure will meet the front and rear setback requirement and does not appear to be contrary to the public interest.

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

The ordinance would result in the applicant having to maintain 5' from the side property line. Staff finds an unnecessary hardship since the lot is too small to allow the development of a structure with this requirement.

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

The structure has not been constructed and the proposed setback is 5' from the side property line. The spirit of the ordinance will be observed as there will still be reasonable space between the structure and neighboring properties.

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 neighborhood in which the subject property is located has several similar sized lots.

6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the*

owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.

Because of the width of the lot and it being a reverse corner lot maintaining a 10 side setback is not achievable. The request is not merely financial.

Second: Bragman

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

Opposed: None

Motion passes.

Item #6

BOA-22-10300181: A request by L&G Contracting for 1) a 1'-11" variance from the minimum 20' rear setback requirement, to allow an addition to be 13'-1" (with 5' setback reduction from alley) from the rear property line, and 2) a 2'-11" variance from the minimum 5' side setback requirement, to allow an addition with overhang to be 2'-1" from the side property line, located at 516 Potomac Street. Staff recommends Approval. (Council District 2) (Joseph Leos, Planner, (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department)

Staff stated 29 notices were sent out, 0 returned in favor, 0 returned in opposition and there is no response from Dignowity Hill Neighborhood Association.

L&G Contracting, representative, - stated they purchased the property last year and it came that way.

No Public Comment

Chair Oroian asked for a motion for item **BOA-22-10300181** as presented.

Kaplan made a motion for item **BOA-22-103002181** for approval.

Regarding Case No. BOA-22-10300181, I move that the Board of Adjustment grant a request for 1) a 1'-11" variance from the minimum 20' rear setback requirement, to allow an addition to be 13'-1" from the rear property line, and 2) a 2'-11" variance from the minimum 5' side setback requirement, to allow an addition with overhang to be 2'-1" from the side property line, situated at 516 Potomac Street, applicant being L&G Contracting, 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 and rear setback to allow an addition to be 13'-1" and 2'-1" from the rear and side property lines. There is still adequate spacing between the addition and rear and side property lines, 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 moving the addition twenty and five feet from the rear and side property lines, as the width of the lot is fifty-three feet, prohibiting the addition to be adequately constructed in the side. Additionally, the placement of the existing residence is sixty-six feet from the front property line, which would prevent the construction of a sizeable addition in the rear.

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 addition is currently 13'-1" and 2'-1" from the rear and side property lines, which does observe the spirit of the ordinance by providing adequate spacing between neighboring properties.

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 that the requested variances will not alter the essential character of the district. Upon site visits, staff observed that small lots were found in the immediate area, including the adjacent property. A request for a 13'-1" and 2'-1" rear and side setback variance request will not injure adjacent conforming properties.

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

Staff finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property. The circumstances do not appear to be merely financial.

Second: Manna

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

Opposed: None

Motion passes.

The meeting went into recess at 5:10 and reconvened at 5:36.

Commissioner Bragman left the meeting during the break.

Chair Oroian moved Item#13 up in the agenda

Item #13 **BOA-22-10300220:** A request by Neighborhood and Housing Services Department for 1) a 250 square foot variance from the minimum 4,000 square foot lot size requirement to allow a lot size of 3,750 square feet and 2) an 8' variance from the minimum 20' rear setback requirement to allow a single-family residence to be 12' from the rear property line, located at 1609 San Carlos Street. Staff recommends Approval. (Council District 5) (Rebecca Rodriguez, Senior Planner, (210) 207-0120, Rebecca.Rodriguez@sanantonio.gov, Development Services Department)

Staff mentioned 37 notices had been mailed out, 3 returned in favor, 0 returned in opposition, and there is no response from the El Charro Neighborhood Association.

Joanna Sias, representative, stated the Neighborhood and Housing Services Department is recommending a complete reconstruction of the home.

No Public Comment

Chair Oroian asked for a motion for item **BOA-22-10300220** as presented.

Kaplan made a motion for item **BOA-22-10300220** for approval.

Regarding Case No. BOA-22-10300220, I move that the Board of Adjustment grant a request for 1) a 250 square foot variance from the minimum 4,000 square foot lot size requirement, to allow a lot size of 3,750 square feet and 2) an 8' variance from the minimum 20' rear setback requirement, to allow a single-family residence to be 12' from the rear property line, situated at 1609 San Carlos Street, applicant being Neighborhood and Housing Services Department, 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

variance request is to allow a single-family residence to maintain a 12' to the rear property line. Additionally, the property does not maintain the minimum 4,000 square foot lot size requirement. The variance request does not appear to be contrary to the public interest, as granting the variances would allow the development of a new single-family residence.

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 inability to demo and rebuild a larger single-family residence on the lot. Staff finds an unnecessary hardship as the property was platted in its current configuration. Due to the size of the lot and square footage of the proposed residence, the structure is unable to meet the rear setback requirement.

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

The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. The front and size setback requirements will be met; therefore 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 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. The property is part of the original 36 square miles of the City of San Antonio where smaller lots are commonly found. Surrounding properties do not maintain the square footage requirement either, therefore injury to adjacent properties is unlikely.

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. Due to the current configuration of the lot, it cannot maintain the minimum lot size requirement. In addition, a setback reduction to the rear would help accommodate a reasonable sized residence on the lot. The request does not appear merely financial.

Second: Manna

In favor: Spielman, Albert, Menchaca, Vasquez, Lynde, Manna, Kaplan, Miess, Ozuna, and Oroian

Opposed: None

Motion passes.

Item #7

BOA-22-10300186: A request by Anita Salazar for 1) a 4' variance from the minimum 5' rear and side setback requirement to allow an accessory structure to be 1' from the side and rear property lines, and 2) a 5' variance from the 15' minimum clear vision requirement to allow a fence to be 10' from the front driveway, located at 204 Parkview. Staff recommends Denial with an alternate recommendation for the Rear and Side Setback. Staff recommends Approval for the Clear Vision. (Council District 3) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 31 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and there was no response from the Tierra Linda Heights Homeowners Association.

Anita Salazar, applicant, - stated he bought the shed from Home Depot and no one told her she needed a permit, and she amended her application to include gutters .

No Public Comment

Chair Oroian asked for a motion for item **BOA-22-10300186**, as presented.

Ozuna made a motion for **BOA-22-10300186** for approval.

Regarding Case No. **BOA-22-10300186**, I move that the Board of Adjustment grant a request for 1) a 4' variance from the minimum 5' rear and side setback requirement, to allow an accessory structure with gutters to be 1' from the side and rear property lines, and 2) a 5' variance from the 15' minimum clear vision requirement, to allow a fence to be 10' from the front driveway, situated at 204 Parkview Drive, applicant being Anita Salazar, 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 variance for the clear vision is not contrary to the public interest as there are similar fences in the area with similar clear vision encroachments.

The structure is not contrary to the public interest, as there will be sufficient space from

the structure and the neighboring properties.

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

To conform to the clear vision standards the applicant would have to demolish and replace the fence to conform. This will cause an unnecessary hardship.

Staff finds an unnecessary hardship since the lot is too small to allow the development of a structure with the 5' side and rear setback requirement.

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

The fence is existing, and the spirit of the ordinance is observed and substantial justice is done.

The structure has been constructed and the current setback is 1' from the rear and side property lines. The spirit of the ordinance will be observed as there is reasonable space between the structure and neighboring properties.

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 fence as is, will not alter the character of the district.

If the side and rear setback variances is granted, the addition will maintain 1' from the side and rear property line. This distance is not likely to alter the essential character of the district as there are similar structures with similar setbacks 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.*

Staff finds that the existing fence maintain a 10' clear vision was a unique circumstance not created by the owner.

Because of the width of the lot and configuration of the existing residence, maintaining a 1' rear and side setback is achievable. The request is not merely financial.

Second: Kaplan

In Favor: Spielman, Albert, Menchaca, Vasquez, Lynde, Manna, Kaplan, Miess, Ozuna, and Oroian

Opposed: None

Motion passes.

Item #8

BOA-22-10300200: A request by Alfredo Alvarez for 1) a 7' special exception from the maximum 5' height to allow a predominantly open fence to be 5'-7" on the front yard, 2) a 13'-8" variance from the 25' minimum clear vision requirement to allow a fence to be 11'-4" from the corner curb, and 3) a 6'-6" variance from the 15' minimum clear vision requirement to allow a fence to be 8'-6" from the front driveway, located at 8303 Quihi Street. Staff recommends Approval. (Council District 4) (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 there is no registered neighborhood association.

Rolanda Salazar, representative, - stated he is requesting for the fence for security for his dad.

No Public Comment

Chair Oroian asked for a motion for item **BOA-22-10300200**, as presented.

Miess made a motion for **BOA-22-10300200** for approval.

Regarding Case No. **BOA-22-10300200**, I move that the Board of Adjustment grant a request for 1) a 13'-8" variance from the 25' minimum clear vision requirement, to allow a fence to be 11'-4" from the corner curb, and 2) a 6'-6" variance from the 15' minimum clear vision requirement, to allow a fence to be 8'-6" from the front driveway, situated at 8303 Quihi Street, applicant being Alfredo Alvarez, 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 13'-8" variance from the 25' minimum clear vision requirement to allow a fence to be 11'-4" from the corner curb, and a 6'-6" variance from the 15' minimum clear vision requirement to allow a fence to be 8'-6" from the front driveway and these variance requests are 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 fence having to comply with the 15' clear vision requirement from the front driveway and to comply with the 25' clear vision requirement from the curb which cannot be achieved due to the size and shape of 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. A 13'-8" variance from the 25' minimum clear vision requirement to allow a fence to be 11'-4" from the corner curb, and a 6'-6" variance from the 15' minimum clear vision requirement to allow a fence to be 8'-6" from the front driveway observes the spirit of the ordinance due to the size and shape of 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 also finds the request for a 13'-8" variance from the 25' minimum clear vision requirement to allow a fence to be 11'-4" from the corner curb, and a 6'-6" variance from the 15' minimum clear vision requirement to allow a fence to be 8'-6" from the front driveway will not 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 size and shape of the property.

Second: Manna

In Favor: Spielman, Albert, Menchaca, Vasquez, Lynde, Manna, Kaplan, Miess, Ozuna, and Oroian

Opposed: None

Motion passes.

Chair Oroian asked for a motion for the fence height for item **BOA-22-10300200**, as presented.

Miess made a motion for **BOA-22-10300200** for approval.

Regarding Case No. BOA-22-10300200, I move that the Board of Adjustment grant a special exception to allow for a 7" special exception from the maximum 5' height to allow a predominantly open fence, to be 5'-7" on the front yard, situated at 8303 Quihi Street, applicant being Alfredo Alvarez, 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 was observed upon the site visit and, if granted, staff finds the request would not 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 located along the front property and is exceeding the maximum height requirement by 7". The fence is predominately open which serves the public welfare and convenience.

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

The fence will create enhanced security for the subject property and will 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 section 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: Kaplan

In Favor: Spielman, Albert, Menchaca, Vasquez, Lynde, Manna, Kaplan, Miess, Ozuna, and Oroian

Opposed: Manna

Motion passes.

Item #9 **BOA-22-10300202:** A request by Marek Sieczynski for 1) a 25' variance from the minimum 30' rear setback to allow structures to be 5' from the rear property line, 2) a 10' variance from the minimum 15' rear buffer to allow structures to be 5' from the rear property line, 3) a 5' variance from the minimum 15' side buffer to allow a structure to be 10' from the side property line, and 4) a 10' variance from the minimum 15' Type B buffer to allow parking to be 5' from the side property line located at 5711 South IH 35 and 930 Fitch Street. Parking situated as shown in the site plan. Staff recommends Approval. (Council District 5) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

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

Marek Sieczynski, applicant, - stated they have not started building but need some variances due to the lot size.

No Public Comment

Chair Oroian asked for a motion for item **BOA-22-10300202** as presented

Ozuna made a motion for **BOA-22-10300202**

Regarding Case No. BOA-22-10300202, I move that the Board of Adjustment grant a request for 1) a 25' variance from the minimum 30' rear setback, to allow structures to be 5' from the rear property line, 2) a 10' variance from the minimum 15' rear buffer, to allow structures to be 5' from the rear property line, 3) a 5' variance from the minimum 15' side buffer, to allow a structure to be 10' from the side property line, and 4) a 10' variance from the minimum 15' Type B buffer, to allow parking to be 5' from the side property line,; situated at 5711 South IH 35 and 930 Fitch Street, Oroian made a friendly amendment for a 10' buffer instead of a 5' buffer behind 934 and 940 Fitch. Applicant being Marek Sieczynski, 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 variance for the rear setback to allow a structure to be 5' from the rear property line and the side buffer to allow a structure to be 10' from the side property line and the landscape buffer to be 5' 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 maintain 30' from the rear property line and 10' from the side property line and 15' landscape buffer requirement. Staff finds an unnecessary hardship since the lot is too small to allow the development of a structure with this requirement.

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

The structure has not been constructed and the proposed setback is 5' from the rear property line, 10' from the side property line and 5' landscape buffer for a parking lot. The spirit of the ordinance will be observed as there will still be reasonable space between the structure and neighboring properties.

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. The area in which the subject property is located has several similar sized lots.

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

Because of the width of the lot and configuration of the existing property the request is not merely financial.

Second: Oroian

Oroian made a friendly amendment for a 10' buffer instead of a 5' buffer behind 934 and 940 Fitch.

Ozuna accepted the friendly amendment.

In Favor: Spielman, Albert, Menchaca, Vasquez, Lynde, Manna, Kaplan, Miess, Ozuna, and Oroian

Opposed: None

Motion passes.

Chair Oroian made a **motion** to reconsider the motion for clarification.

Second: Ozuna

In Favor: Spielman, Albert, Menchaca, Vasquez, Lynde, Manna, Kaplan, Miess, Ozuna, and Oroian

Opposed: None

Motion passes for reconsideration.

Ozuna made a motion for **BOA-22-10300200** for approval.

Regarding Case No. BOA-22-10300202, I move that the Board of Adjustment grant a request for 1) a 25' variance from the minimum 30' rear setback, to allow structures to be 5' from the rear property line, 2) a 10' variance from the minimum 15' rear buffer, to allow structures to be 5' from the rear property line, 3) a 5' variance from the minimum 15' side buffer, to allow a structure to be 10' from the side property line, and 4) a 10' variance from the minimum 15' Type B buffer, to allow parking to be 5' from the side property line provided in a manner per the provided site plan, situated at 5711 South IH 35 and 930 Fitch Street, applicant being Marek Sieczynski, 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. I would also like to include to exhibit the parking as shown in the site plan.

Second: Oroian

Oroian asked for a friendly amendment to adjust the rear setback abutting the south property line of 934 and 940 Fitch Street to be a 10' variance and that the 5' buffer be amended at the rear or south property line at 934 and 940 Fitch Street to be a 10' buffer.

Ozuna accepted the friendly amendment.

In Favor: Spielman, Albert, Menchaca, Vasquez, Lynde, Manna, Kaplan, Miess, Ozuna, and Oroian

Opposed: None

Motion passes.

Commissioner Kaplan left the meeting at 6:41.

Item#10

BOA-22-10300203: A request by Luis Faraklas, P.E. for a 5' variance from the 10' minimum front setback to allow an attached carport to be 5' from the back of the sidewalk, located at

16915 Vista Forest Drive. Staff recommends Denial. (Council District 10) (Joseph Leos, Planner, (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department)

Staff mentioned 32 notices had been mailed out, 0 returned in favor, 0 returned in opposition, and the Vista Neighborhood Association is opposed.

Luis Faraklas, applicant, - stated they need a variance to get a permit. **The applicant requested a continuance to the December 5th meeting.**

No Public Comment

Ozuna made a motion for **BOA-22-10300203** for approval

Regarding Case No. BOA-22-10300203, I move that the Board of Adjustment grant a request for a 5' variance from the 10' minimum front setback, as described in Section 35-310.01, to allow an attached carport to be 5' from the back of the sidewalk, situated at 16915 Vista Forest Drive, applicant being Luis Faraklas, P.E., 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 front setback to allow an attached carport to be 5' from the back of the sidewalk. This spacing provides suitable spacing between the carport and curb 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 building the carport 10' from back of the sidewalk or demolishing the carport, which would result in an unnecessary hardship as there is limited spacing to build a sizeable carport.

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 would be 5' from the back of the sidewalk, which will observe the spirit of the ordinance because it would provide adequate distance from the sidewalk.

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

No uses other than those allowed within the district will be allowed with this variance.

5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*

If granted, the carport will maintain 5' from the back of the sidewalk. This distance provides adequate spacing, which is not likely to injure adjacent conforming properties and alter the essential character of the district.

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

Staff finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, such as limited spacing in the front. The circumstances appear to be the results of general conditions in the district in which the property is located.

Second: Oroian

Ozuna rescinded his motion and is seeking a continuance to the December 5th meeting.

Second: Oroian

In Favor: Spielman, Albert, Menchaca, Vasquez, Lynde, Manna, Miess, Ozuna, and Oroian

Opposed: None

Motion passes for a continuance to December 5th.

The meeting went into recess at 6:56 and returned at 7:00.

Item #11

BOA-22-10300206: A request by Matthew Morales for 610 square feet from the 6,000 minimum lot size to allow a lot to be 5,390 square feet, located at 1751 Amanda Street. Staff recommends Approval. (Council District 3) (Joseph Leos, Planner, (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department)

Staff stated 23 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and there is no response from the Pasadena Heights Neighborhood Association.

Matthew Morales, representative, - stated he bought the lot with the intent to develop affordable housing.

No Public Comment

Chair Oroian asked for a motion for item **BOA-22-10300206** as presented.

Miess made a motion for **BOA-22-10300206** for approval.

Regarding Case No. **BOA-22-10300206**, I move that the Board of Adjustment grant a request 610 square foot variance from the 6,000 minimum lot size, as described in Section 35-310.01, to allow a lot to be 5,390 square feet, situated at 1751 Amanda Street, applicant being Matthew Morales, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

The public interest is defined as the general health, safety, and welfare of the public. The applicant is requesting a variance for 610 square feet from the 6,000 minimum lot size to allow a lot to be 5390 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 not being able to construct the single-family dwelling, as the lot size does not meet the minimum square footage required

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 variance of 610 square feet will observe the spirit of the ordinance and substantial justice will be served as there are other properties with similar lot sizes and dimension were observed 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.*

The essential character of the district will not be altered, as the request for a 610 square feet variance will be harmonious with the lot shape and sizes 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 to unique circumstances existing on the property such as the small amount of available space and uniform lot sizes in the immediate vicinity. Concluding, the request is not merely financial.

Second: Manna

In Favor: Spielman, Albert, Menchaca, Vasquez, Lynde, Manna, Miess, Ozuna, and Oroian

Opposed: None

Motion passes.

Item #12 **BOA-22-10300208:** A request by Livorio Delbosque for a 7' variance from the 10' minimum front setback requirement to allow an attached carport with overhang to be 3' from the front property line, located at 4211 Katrina Lane. Staff recommends Denial. (Council District 3) (Joseph Leos, Planner, (210) 207-3074, Joseph.Leos@sanantonio.gov, Development Services Department)

Staff mentioned 43 notices had been mailed out, 0 returned in favor, 0 returned in opposition, and there is no response from the Pecan Valley Neighborhood Association.

Livorio Delbosque, applicant, - stated he wants the carport to protect his car from weather and to cover his wife from getting wet. He also stated the driveways are all the same length. The construction will be corrugated metal with a 4" post greater than 3" in towards his house so therefore if there's a 2" overhang, it's not going to exceed the 3'.

No Public Comment

Chair Oroian asked for a motion for item **BOA-22-10300208** as presented

Miess made a motion for **BOA-22-10300208** for approval.

Regarding Case No. **BOA-22-10300208**, I move that the Board of Adjustment grant a request for a 7' variance from the 10' minimum front setback requirement, to allow an attached carport with overhang to be 3' from the front property line, situated at 4211 Katrina Lane, applicant being Livorio Delbosque, 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 front setback to allow an attached carport to be 3' from the front property line. This spacing provides suitable spacing between the carport and curb 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 building the carport 10' from the front property line or demolishing the carport, which would result in an unnecessary hardship as there is limited spacing to build a sizeable carport.

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 carport would be 3' from the front property line, which will observe the spirit of the ordinance because it would provide adequate distance from the sidewalk.

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

No uses other than those allowed within the district will be allowed with this variance.

5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*

If granted, the carport will maintain 3' from the front property line. This distance provides adequate spacing, which is not likely to injure adjacent conforming properties and alter the essential character of the district.

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

Staff finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, such as limited spacing in the front. The circumstances appear to be the results of general conditions in the district in which the property is located.

Second: Manna

In Favor: Spielman, Albert, Menchaca, Vasquez, Lynde, Manna, Miess, Ozuna, and Oroian

Opposed: None

Motion passes.

Item #14 (WITHDRAWN) BOA-22-10300226

Approval of Minutes

Manna made a motion for Approval of the November 7, 2022 minutes.

Second: Miess

All voice-voted aye.

Opposed: None

Minutes Approved.

Adjournment

There being no further business, the meeting was adjourned at 7:24 P.M.

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary