

## City of San Antonio

**DRAFT****Board of Adjustment Minutes**Development and Business Services Center  
1901 South Alamo

December 5, 2022

1:00PM

1901 S. Alamo

**1:05 P.M. - Call to Order****- Roll Call****Present:** Spielman, Albert, Menchaca, Manna, Kaplan, Ozuna, Zuniga, Vasquez, Lynde, and Oroian**- Absent:** Bragman and Cruz

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Hearing and Consideration of the following Variances, Special Exceptions, Appeals, as identified below***Item #1 (WITHDRAWN) BOA-22-10300160:**

**Item #2 BOA-22-10300189:** A request by Alejandra Moralda for A request for 1) a 5' variance from the 5' minimum front setback, to allow an addition to be 5' from the front property line, 2) a request for a 20' variance from the 25' minimum clear vision requirement, to allow a solid screen fence to be 5' from the curb, 3) a request for a 5'-3" and 8'-9" variance from the 15' minimum clear vision requirement, to allow a solid screen fence to be 9'-9" and 6'-3" from driveways, 4) a request for a 3' special exception from the 3' maximum solid screen fence height requirement, to allow a 6' solid screen fence in the front yard, and 5) a request for a 1' special exception from the 5' maximum predominantly open fence height requirement, to allow a 6' predominantly open fence in the front yard, located at 714 South Navidad Street. Staff recommends Approval. (Council District 5) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 30 notices had been mailed out, 0 returned in favor, 0 returned in opposition, and

the Historic Westside Residents Association is in favor.

Alejandra Moralda, applicant, - stated they bought this house with intentions to fix it. There are homeless people who keep coming onto the property making messes and overloading the trash.

**Public Comment:**

**Leticia Sanchez, Historic Westside Residents Association representative, is in favor.**

**Commissioner Cruz joined the meeting at 1:20 P.M..**

Chair Oroian asked for a motion for item **BOA-22-10300189** as presented.

Kaplan made a **motion** for item **BOA-22-10300189** for approval.

Regarding Case No. BOA-22-10300189, I move that the Board of Adjustment grant a request for 1) a 5' variance from the 5' minimum front setback, to allow an addition to be 5' from the front property line, 2) a request for a 20' variance from the 25' minimum clear vision requirement, to allow a solid screen fence to be 5' from the curb, 3) a request for a 5'-3" and 8'-9" variance from the 15' minimum clear vision requirement, to allow a solid screen fence to be 9'-9" and 6'-3" from driveways, situated at 714 South Navidad, applicant being Alejandra Moralda, 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.*

**These variance requests for the Minimum Front Setback and Clear Vision do not appear contrary to the public interest due to the limited space existing on the property.**

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

**The configuration and depth of the lot does not provide enough adequate space to meet the 10' Minimum Front Setback and Minimum Clear Vision Requirement.**

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

**The recommended variances do appear to observe the spirit of the ordinance. The shape of the lot is unusual, and the limited space of the lot present an unnecessary hardship.**

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 addition will maintain 5' from the front property line, 2'-9" Clear Vision from the neighboring driveway and 5' Clear Vision from the corner. These distances are not likely to alter the essential character of the district.**

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

**The property has unique circumstances such as the unusual size of the lot and is not merely financial.**

**Second:** Vasquez

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

**Opposed:** None

**Motion passes.**

Chair Oroian asked for a motion for the special exception for **BOA-22-10300189** as presented.

Manna made a **motion** for item **BOA-22-10300189** for approval.

Regarding Case No. **BOA-22-10300189**, I move that the Board of Adjustment grant a request for 1) a request for a 3' special exception from the 3' maximum solid screen fence height requirement, to allow a 6' solid screen fence in the front yard, and 2) a request for a 1' special exception from the 5' maximum predominantly open fence height requirement, to allow a 6' predominantly open fence in the front yard, situated at 714 South Navidad, applicant being Alejandra Moralda, 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 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 line and is exceeding the maximum height requirement by 1', also exceeding the maximum privacy requirement by 3'.**

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

**The fence will create enhanced security and privacy for the subject property and is unlikely to substantially injure any neighboring properties.**

*D. The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought.*

**The additional height for the 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, Manna, Kaplan, Ozuna, Cruz, Zuniga, Vasquez, Lynde, and Oroian

**Opposed:** None

**Motion passes.**

**Item #3**

**(Continued from 10/24/22) BOA-22-10300180:** A request by Elizabeth Escajeda for 1) a request for a 3' 2" variance to the required 5' rear setback for an accessory structure to allow an accessory structure to have a 1' 10" side setback, 2) a request for a 4' variance to the required 5' side setback for an accessory structure to allow an accessory structure to have a 1' side setback, and 3) a request for a variance to the 50% maximum lot coverage for all accessory structures in the rear and side yard to allow over 50% lot coverage for all accessory structures, located at 218 South San Gabriel Avenue. Staff recommends Denial. (Council District 5) (Mirko Maravi, Principal Planner (210) 207-0107, mirko.maravi@sanantonio.gov, Development Services Department)

Staff stated 39 notices had been mailed out, 0 returned in favor, 0 returned in opposition, and there is no response from the Las Palmas Neighborhood Association

Joseph Rodriguez, representative, - stated the request is for his mother in law's safety as well as his and his wives' property.

**No Public Comment**

Chair Oroian asked for a **motion** for **BOA-22-10300180** for a continuance to February 20<sup>th</sup>, 2023.

**Chair Oroian** made a motion for **BOA-22-10300180** for a continuance.

**Second:** Manna

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

**Opposed:** None

Motion passes for continuance to February 20<sup>th</sup>, 2023.

**Commissioner Ozuna stepped out of the meeting at 2:02 P.M..**

**Item #4**

**(Continued from 11/7/22) BOA-22-10300197:** A request by Nam Lee for a Special Exception to allow one (1) additional Type 2 Short Term Rental permit on the block face, located at 736 East Myrtle. Staff recommends Denial. (Council District 1) (Joshua Orton, Senior Planner, (210) 207-7945, Joshua.Orton@sanantonio.gov, Development Services Department)

Staff stated 32 notices had been mailed out, 0 returned in favor, 2 returned in opposition, and there is no response from the Tobin Hill Neighborhood Association.

**Commissioner Ozuna rejoined the meeting at 2:12 P.M..**

Phuong Pham, Representative, - stated she bought the house with her cousin and fixed it up with intention to have a short term rental.

**No Public Comment**

Chair Oroian asked for a **motion** for **BOA-22-10300197** as presented

**Manna** made a motion for **BOA-22-10300197** for approval

Regarding Case No. BOA-22-10300197, I move that the Board of Adjustment grant a special exception to allow for (1) Type 2 short term rental unit, situated at 736 E Myrtle, applicant being Nam Lee, 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 not materially endanger the public health or safety.*  
**The Board finds that the request to operate an additional short term rental is unlikely to materially endanger the public health, safety, or welfare. There is nothing obvious that would distinguish a short term rental versus a long term rental at this facility.**
2. *The special exception does not create a public nuisance.*

**There does not appear to be a reason to believe a public nuisance would be created if an additional short term rental permit was approved.**

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

**The neighboring properties consist of single-family structures and industrial warehouses. This unique scenario does not cause reason to believe it will substantially injure neighboring property as a Type 2 Short Term Rental.**

4. *Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary faculties have been or are being provided.*

**The subject property provides off-street parking and appears to have adequate utilities, access, and open space.**

5. *The applicant or owner for the special exception does not have any previously revoked short term rental licenses, confirmed citations, or adjudicated offenses convictions for violations of Chapter 16, Article XXII of the City Code within one year prior to the date of the application.*

**The applicant does not have any history of revocation, citations, or convictions for violations of Chapter 16.**

6. *The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought.*

**The subject property is located in close proximity to residential uses of varying intensity. With the property owner providing off-street parking and maintaining it from the neighboring property, the special exception does not appear to alter the essential character of the district and location in which the property is seeking the special exception.**

**Second: Kaplan**

**In Favor: None**

**Opposed:** Spielman, Albert, Menchaca, Manna, Kaplan, Ozuna, Cruz, Zuniga, Vasquez, Lynde, and Oroian

**Motion fails.****Item #5**

**BOA-22-10300070**: A request by Cassandra Dearth for a request for a 3'-8" variance from the minimum 5' side setback requirement to allow an accessory structure to be 1'-4" from the side property line, located at 106 Vaughan Place. Staff recommends Approval. (Council District 7) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 29 notices had been mailed out, 0 returned in favor, 0 returned in opposition, and there is no response from Maverick Homeowners Association.

Cassandra Dearth, applicant, stated she purchased it as is and wants utilities for an accessory dwelling unit.

**No Public Comment**

Chair Oroian asked for a **motion** for item **BOA-22-10300070** as presented

**Manna** made a motion for item **BOA-22-10300070** for approval.

Regarding Case No. BOA-22-10300070, I move that the Board of Adjustment grant a request for a 3'-8" variance from the minimum 5' side setback requirement, to allow an accessory structure to be 1'-4" from the side property line, situated at 106 Vaughan Place, applicant being Cassandra Dearth, 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 applicant is requesting a 3'-8" variance from the minimum 5' side setback requirement to allow a structure with 10" overhang and gutters to be 1'-4" from the side property line, which does not appear to be contrary to the public interest. The structure is existing and appears to provide adequate space along the side property line.**

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

**Staff finds an unnecessary hardship due to the limited size of the rear yard.**

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

**The requested variance is to allow a structure to be closer to the side property line. Due to the configuration of the property and the structure being existing, 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. Two additional properties located along Vaughan Place were observed to have accessory structures within the side setback due to the size of the lots, therefore the request would not alter the essential character of the neighborhood.**

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

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

**Second:** Cruz

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

**Opposed:** None

**Motion passes.**

**Item #6**

**BOA-22-10300171:** A request by ONE80 SOLAR for a request for a 4'-6" variance from the 5' minimum rear property setback to allow a detached carport to be 6" from the rear property line, located at 1602 North Interstate Highway 35. Staff recommends Approval. (Council District 2) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 20 notices were sent out, 0 returned in favor, 0 returned in opposition and there is no response from the Government Hill Neighborhood Association.

Patrick Atwater, ONE80 SOLAR representative, - stated the carport is to cover the parking spots.

**No Public Comment**

Chair Oroian asked for a motion for item **BOA-22-10300171** as presented.



**Manna** made a motion for item **BOA-22-10300171** for approval.

Regarding Case No. BOA-22-10300171, I move that the Board of Adjustment grant a request for a 4'-6" variance from the 5' minimum rear property setback, to allow a detached carport to be 6" from the rear property line, situated at 1602 North Interstate Highway 35, applicant being ONE80 Solar, 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 requested variance will not be contrary to the public's interest as the carport will contain sufficient space as the rear property is on a right of way.**

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

**Without the variance being granted the applicant having to possibly postpone development or adapt the plans to meet the 5' side setback requirement.**

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

**The variance for the carport setback will not adversely affect surrounding properties in the immediate area as the is minimal chance of water runoff.**

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 carport will have enough space away from the adjacent property line and is likely to not negatively affect 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.*

**It appears 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 orientation of the lot. The**

**variance request is not merely financial.**

**Second:** Cruz

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

**Opposed:** None

**Motion passes.**

**Chair Oroian moved item #16 up on the agenda**

**Item #16** **BOA-22-10300242**: A request by Caren Easterling for a 2' special exception from the maximum 6' fence height to allow a privacy fence to be 8' in the rear area of the property, located at 2364 E Southcross Boulevard. Staff recommends Approval. (Council District 3) (Joseph Leos, Planner (210) 207-3074, joseph.leos@sanantonio.gov, Development Services Department)

Staff mentioned 14 notices had been mailed out, 0 returned in favor, 0 returned in opposition, and there is no response from the Highland Hills Neighborhood Association.

Caren Easterling, applicant, stated the fence is for security and there is homeless there day and night.

**No Public Comment**

Chair Oroian asked for a motion for item **BOA-22-10300242** as presented.

**Ozuna** made a motion for item **BOA-22-10300242** for approval.

Regarding Case No. **BOA-22-10300242**, I move that the Board of Adjustment grant a request for a 2' special exemption from the maximum 6' fence height, to allow a privacy fence that is 5 ft in width, from building face to building face, as described in Section 35-514, to allow a privacy fence to be 8' in the rear area of the property, situated at 2364 East Southcross Boulevard, applicant being Caren Easterling, 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 proposed 8' fence being requested in the rear yard is metal picket. 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 commercial utilities while still promoting a sense of community. An 8' tall fence in the rear yard does not appear to affect the public welfare.**

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

**The additional fence height being requested will enhance security for the subject property, as the adjacent areas are also zoned commercial and therefore the request is unlikely to injure the 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 will not alter the essential character of the district, as the entirety of the fence will be in the rear yard at a width of 5'.**

*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 use of commercial properties. The requested special exception will not weaken the general purpose of the district.**

**Second:** Kaplan

**In favor:** Spielman, Albert, Menchaca, Manna, Kaplan, Ozuna, Cruz, Zuniga, Vasquez, Lynde, and Oroian

**Opposed:** None

**Motion passes.**

**Item #7**

**BOA-22-10300196:** A request by Tom Portillo for a 3'-5" variance from the minimum 5' side setback requirement, to allow a structure to be 1'-7" from the side property line, located at 232 Cornell Avenue. Staff recommends Denial with an Alternate Recommendation. (Council District 1) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 30 notices were mailed to property owners within 200 feet, 1 returned in favor, 0 returned in opposition, and the Uptown Neighborhood Association is in favor

Carina Fuentes, representative, - stated the property was purchased as is and they want to develop the accessory structure in the rear and is amending her application to include gutters.

Melody Alvarez, general contractor, - stated there is a new fence put up in front of the existing fence.

**No Public Comment**

Chair Oroian asked for a motion for item **BOA-22-10300196**, as presented.

**Kaplan** made a motion for **BOA-22-10300196** for approval.

Regarding Case No. BOA-22-10300196, I move that the Board of Adjustment grant a request for a 3'-5" variance from the minimum 5' side setback requirement, as described in Sec 35-310.01, to allow a structure to be 1'-7" with gutters from the side property line, situated at 232 Cornell Avenue, applicant being Tom Portillo, 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 request is to allow a detached structure to be reduced to less than the minimum requirements. The 1'-7" side setback leaves enough room of separation between structures.**

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 having to meet the minimum side setback from the property line. Staff finds an unnecessary hardship since the variance will allow for the development of a structure with the 1'-7" side 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 structure has been constructed and the current setback is 1'-7" from the side property lines. The side setback variance would observe the spirit of the ordinance by still maintaining the side setback from the side property line.**

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 detached structure will be subject to maintain a 1'-7" side setback from the side property line which is not likely to negatively affect the adjacent neighboring 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.*

**It appears the plight of the owner of the property for which the variance is sought is due to unique circumstances because of the width of the lot and configuration of the existing residence, the request is not merely financial.**

**Second:** Manna

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

**Opposed:** None

**Motion passes.**

**The meeting went into recess at 3:12 P.M. and reconvened at 3:32P.M..**

**Item #8**

**BOA-22-10300219:** A request by Rod Wallace for 1) a 2' special exception from the maximum 6' fence height to allow a solid screened fence to be 8' tall along the side and rear property lines and 2) a 5' special exception from the maximum 3' fence height to allow a solid screened fence to be 8' tall along the front yard, located at 562 East Mitchell Street. Staff recommends Approval. (Council District 3) (Rebecca Rodriguez, Senior Planner, (210) 207-0120, Rebecca.Rodriguez@sanantonio.gov, Development Services Department)

Staff stated 30 notices were mailed to property owners within 200 feet, 8 returned in favor, 1 returned in opposition, and Roosevelt Park Neighborhood Association is in favor and there is no response from Riverside Neighborhood Association (within 200' of site).

Rod Wallace, applicant, - stated he bought the property in 2015 and it is a renovation and he got approval from surrounding neighbors as well.

Jonathon Smith, Architect, - stated they want to put the front door on Presa Street and talked about the other design ideas.

**No Public Comment**

Chair Oroian asked for a motion for item **BOA-22-10300219**, as presented.

**Manna** made a motion for **BOA-22-10300219** for approval.

Regarding Case No. BOA-22-10300219, I move that the Board of Adjustment grant a request for 1) a 2' special exception from the maximum 6' fence height, to allow a solid screened fence to be 8' tall along the side and rear property lines and 2) a 5' special exception from the maximum 3' fence height, to allow a solid screened fence to be 8' tall along the front yard, situated at 562 East Mitchell, applicant being Rod Wallace, 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 proposed solid screened fence being requested is located along the front, side, and rear property lines. However, it will not be past the front façade of the existing service garage which will be converted into the primary residence. 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. An 8' tall fence does not pose any adverse effects to the public welfare. The property is located on the corner of South Presa and East Mitchell which contains numerous commercial and industrial uses in the immediate area.**

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

**The property is fronting on both a Collector Street and a Secondary Arterial B Street. These street classifications consistently have heavier foot traffic and substantial vehicular traffic. The fence will strengthen security to the subject property and adjacent properties.**

*D. The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought.*

**The additional fence height does not appear to alter the essential character of the district. The subject property is located on a corner lot and the construction of an 8' fence would enhance the entrance into the neighborhood located to the west of the property. Injury to the character of the district is highly unlikely.**

*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 allows for a multitude of uses due to the “IDZ” Infill Development Zone District in which it is located. The requested special exception will not weaken the general purpose of the district.**

**Second: Cruz**

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

**Opposed:** None

**Motion passes.**

**Item #9      BOA-22-10300223: POSTPONED**

**Item#10     BOA-22-10300225: POSTPONED**

**Commissioner Ozuna left the meeting at 3:53 P.M. and returned at 4:04P.M..**

**Item #11     BOA-22-10300227:** A request by Susan Ramirez for a 2’-5” variance from the 6’ side yard fence height to allow an 8’-5” fence in the side yard, located at 155 Meadow Park Street. Staff recommends Denial. (Council District 6) (Joseph Leos, Planner (210) 207-3074, joseph.leos@sanantonio.gov, Development Services Department)

Staff stated 31 notices were mailed to property owners within 200 feet, 15 returned in favor, 0 returned in opposition, and there is no response from the Meadow Village Neighborhood Association.

Lee Camargo Quinn, representative, - stated the fence is needed for safety of her mother’s property.

**Public Comment:**

**Voicemail:**

**Bernard Cruz, is in favor**

Chair Oroian asked for a motion for item BOA-22-10300227 as presented.

**Kaplan** made a motion for BOA-22-10300227 for approval.

Regarding Case No. BOA-22-10300227, I move that the Board of Adjustment grant a request for a 2’-5” variance from the 6’ side yard fence height, as described in Section 35-514, to allow an 8’-5” fence in the side yard, situated at 155 Meadow Park, applicant being Susan Ramirez, 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*

**the request for an additionally height for a fence will provide safety and security for this property and will not alter the appearance of the community.**

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

**the applicant would have to alter or reconstruct the already constructed fence to be 6'.**

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

**the fence provides uniformity while maintaining security within a community that already has a precedence of fences over 6'.**

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 because*

**there are other fences in the immediate area, which is not likely to alter the essential character of the district.**

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

**Staff finds the plight of the owner of the property for which the variance is sought is due to the location of the subject property being situated on a corner lot.**

**Second:** Chair Oroian

Chair Oroian made a friendly amendment to remove the 8'-5' special exception along Meadow Way (west side) and the front so only the rear and east side would allow the 8'-5" fence height.

Commissioner Kaplan accepted the friendly amendment.

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

**Opposed:** None



**Motion passes.**

- Item #12**      **BOA-22-10300228**: A request by Anna Saenz for 1) a 4'-2" variance from the 5' minimum side property setback to allow a structure to be 10" from the side property line, and 2) a 5' variance from the 15' clear vision area to allow a fence to be 10' from the driveway, located at 1615 Santa Rita Street. Staff recommends Approval for the Clear Vision. Staff recommends Denial with an Alternate Recommendation for the Side Setback. (Council District 3) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 32 notices had been mailed out, 1 returned in favor, 1 returned in opposition, and there is no response from the Villa Coronado Homeowners Association.

Anna Saenz, applicant, - amended her application to include gutters and is removing the gate.

**No Public Comment**

Chair Oroian asked for a motion for item **BOA-22-10300228** as presented

**Manna** made a motion for **BOA-22-10300228** for approval.

Regarding Case No. **BOA-22-10300228**, I move that the Board of Adjustment grant a request for a 1) 4'-2" variance from the 5' minimum side property setback, to allow a structure to be 10" from the side property line including gutters, situated at 1615 Santa Rita Street, applicant being Anna Saenz, 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 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.*

**Staff finds an unnecessary hardship since the lot is too small to allow the development of the structure with the 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 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 variances would alter the essential character of the district.**

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

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

**Second:** Kaplan

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

**Opposed:** None

**Motion passes.**

**Item #13**

**BOA-22-10300229:** A request by Gail Wise for 1) a 2'-4" variance from the 6' side yard fence height to allow an 8'-4" fence in the side yard, 2) a 9" variance from the minimum 5' side setback requirement to allow a carport with overhang to be 4'-3" from the side property line, and 3) a variance from the maximum 50% impervious cover requirement to allow the front yard to exceed the 50% impervious cover, located at 470 Sharon Drive. Staff recommends Approval for the Side Setback. Staff recommends Denial for the Fence Height and Impervious Cover. (Council District 1) (Joseph Leos, Planner (210) 207-3074, joseph.leos@sanantonio.gov, Development Services Department)

Staff stated 21 notices had been mailed out, 2 returned in favor, 0 returned in opposition, and there is no response from the Shearer Hills/Ridgeview Association.

Gail Wise, applicant, stated she submit a letter with seven signatures in favor in September. She also stated the fence was built to hopefully keep out some noise from the surrounding area.

**No Public Comment**

Chair Oroian asked for a motion for item **BOA-22-10300229** as presented.

**Cruz** made a motion for item **BOA-22-10300229** for approval.

Regarding Case No. **BOA-22-10300229**, I move that the Board of Adjustment grant request for 1) a 2'-4" variance from the 6' side yard fence height, as described in Section 35-514, to allow an 8'-4" fence on the east side of the yard, 2) a 9" variance from the minimum 5' side setback requirement, as described in Section 35-310.01, to allow an attached carport with overhang to be 4'-3" from the side property line, and 3) a variance from the maximum 50% impervious cover requirement, as described in Section 35-515(d), to allow the front yard to exceed the 50% impervious cover, situated at 470 Sharon Drive, applicant being Gail Wise, 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*

**the request for additional height for an 8'-4" fence, a carport to be 4'-3" from the side property line, and over 50% impervious cover for a driveway will not alter the appearance of the community.**

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

**the applicant would need to reconstruct the fence to be 6', alter the carport to meet the side setback requirement of 5', and reduce the impervious cover to under 50%.**

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

**the fence provides uniformity. The additional requested variances for the carport side setback and exceeded impervious cover maximum will also observe the spirit of the ordinance as there is adequate distance between the neighboring property line and carport, as well as mitigation of flood water during heavy rain events.**

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 because*

**the requested variances do not pose a hazard to neighboring properties. The already constructed fence does not appear to alter the essential character of the district being it is located in behind the front façade of the home.**

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 requested variance is sought due to the placement of the existing dwelling, size of the lot, and location of the property in proximity to a highway. The request is not merely financial.**

**Second:** Kaplan

**In favor:** Spielman, Albert, Menchaca, Manna, Kaplan, Ozuna, Cruz, Zuniga, Vasquez, Lynde, and Oroian

**Opposed:** None

**Motion passes.**

**Commissioner Cruz left the meeting at 4:54 P.M..**

**Item #14**

**BOA-22-10300232:** A request by Felipe Lara for 1) a 2'-9" variance from the minimum 5' side setback requirement to allow a detached carport to be 2'-3" from the side property line, and 2) a 4'-9" variance from the 15' minimum clear vision requirements to allow a predominately open fence to be 10'-3" from the front driveway, located at 5704 Magnes Lane. Staff recommends Denial. (Council District 6) (Joseph Leos, Planner (210) 207-3074, joseph.leos@sanantonio.gov, Development Services Department)

Staff mentioned 30 notices had been mailed out, 0 returned in favor, 0 returned in opposition, and there is no response from the Cable Westwood Association.

Anjelica Lara, representative, translation services were used, - stated they build the carport for their disabled daughter. They also obtained 23 neighbors sign a petition in support.

**No Public Comment**

Chair Oroian asked for a motion for item **BOA-22-10300232** as presented.

**Kaplan** made a motion for item **BOA-22-10300232** for approval.

Regarding Case No. **BOA-22-10300232**, I move that the Board of Adjustment grant a request for 1) a 2'-9" variance from the minimum 5' side setback requirement, as described in Section 35-370(b)(1), to allow a detached carport to be 2'-3" from the side property line, and 2) a 4'-9" variance from the 15' minimum clear vision requirements, as described in Section 35-514(a)(2), to allow a predominately open fence to be 10'-3" from the front driveway, situated at 5704 Magnes Lane, applicant being Felipe Lara, 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*

**the carport in its current location provides adequate distance from side property line. The applicant is also requesting 4'-9" clear vision variance to allow a predominately open fence to be 10'-3" from the curb. This does not inflict on the safety of vehicular traffic, as this provides ample space from the fence to the curb.**

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

**it would result in the applicant having to alter the carport to be 5' away from the side property line or removing the structure entirely. The unnecessary hardship is the carport being existing. Additionally, the applicant would need to alter the fence to be 15' away from the curb, which can also cause an unnecessary hardship.**

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

**the carport and fence being an acceptable distance from the side property line and curb.**

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 because*

**the carport and fence will maintain 2'-3" distance from the side property line and 10'-3" from the curb, which is not likely to alter the essential character of the district and 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, such as the lot being located on a cul-de-sac. The circumstances do not appear to be merely financial.**

**Second: Manna**

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

**Opposed:** None

**Motion passes.**

**Item#15**     **BOA-22-10300234:** A request by Joann Zamudio for a request for 9'-11" variance from the minimum 10' front setback requirement to allow a carport to be 1" from the front property line, located at 262 Savannah Drive. Staff recommends Denial with an Alternate Recommendation. (Council District 1) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff mentioned 27 notices had been mailed out, 2 returned in favor, 0 returned in opposition, and there is no response from the Dellview Area Homeowners Association.

Joann Zamudio, applicant, stated the carport was build prior to the sidewalks being built, which then caused the setback issues.

**No Public Comment**

Chair Oroian asked for a motion for item **BOA-22-10300234** as presented.

**Manna** made a motion for item **BOA-22-10300234** for approval.

Regarding Case No. **BOA-22-10300234**, I move that the Board of Adjustment grant a request for 9'-11" variance from the minimum 10' front setback requirement to allow an attached carport to be 1" from the front property line with the provisions that there are no sides for the first 15' from the street, situated at 262 Savannah Drive, applicant being Joann Zamudio, 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 structure has adequate space to have a front setback of 1". The structure will meet the side setback requirement but does 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 hardship on the lot as there is inadequate space to meet the minimum front**

**setback requirement for the 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 will be observed as the right of way will not be negatively affected.**

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 evidence that the requested variance would not alter the essential character of the district as there are similar carports 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.*

**Because of the width of the lot and configuration of the existing residence, maintaining a 1" front setback is appropriate for the area. The request is not merely financial.**

**Second:** Chair Oroian

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

**Opposed:** None

**Motion passes.**

## **Approval of Minutes**

**Manna** made a motion for Approval of the November 21, 2022 minutes.

**Second:** Kaplan

**All voice-voted aye.**

**Opposed:** None

**Minutes Approved.**

**Director's Report**

December 19, 2022 Board of Adjustment meeting cancelled.

**Adjournment**

There being no further business, the meeting was adjourned at 5:30 P.M.



APPROVED BY: \_\_\_\_\_ OR \_\_\_\_\_  
Chairman Vice-Chair

DATE: \_\_\_\_\_

ATTESTED BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Executive Secretary