

City of San Antonio



Minutes Board of Adjustment Development and Business Services Center 1901 S. Alamo

Monday, February 20, 2023

1:00 PM

1901 S. Alamo

1:00 PM – Call to Order

SeproTec translator were present.

Roll Call – Present: Spielman, Ingalls Menchaca, Cruz, Zuniga, Manna, Kaplan, Vasquez,
Bragman, Ozuna, Oroian

Absent: None

THE FOLLOWING ITEMS MAY BE CONSIDERED AT ANY TIME DURING THE REGULAR PLANNING COMMISSION MEETING:

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

Item #1

BOA-22-10300180:(Continued from 12/5/22) 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) 2070107, mirko.maravi@sanantonio.gov, Development Services Department)

Staff stated 39 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, and no response from Las Palmas Neighborhood Association.

Chair Oroian joined the meeting at 1:22 PM

Mr. Vasquez joined the meeting at 1:24 PM

Ms. Cruz joined at 1:30 PM

Joseph Rodriguez, representative, stated there is an issue with negotiating a resolution with property owner adjacent to them to grant reduce accessory structure and gain additional access to rear/side yard.

No Public Comment

Chair Oroian made a **Motion** for **BOA-22-10300180** for approval.

Regarding Case No. **BOA-22-10300180**, I move that the Board of Adjustment grant a request 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. 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, situated at 218 South San Gabriel Avenue, applicant being Elizabeth Escajeda, 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 applicant is requesting a reduced setback to their accessory structure on the side and rear and going over the 50% maximum rear/side yard coverage, which would not be contrary to the public interest.

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

The size of the rear yard is smaller than others in the area. This would result in an unnecessary hardship.

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

A 3" rear setback and a 1' side setback on the south side, and a 3" side setback on the north side will leave enough room from the property line, and the increase in allowable lot coverage will observe the spirit of the ordinance and will not adversely affect surrounding properties in the immediate area.

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

As the property is zoned "R-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 accessory structure will have a reduced setback while still maintaining separation from the abutting properties. This will not alter the essential character of the district.

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

Staff finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property. The existing lot is smaller than the ones in the area and the owner is left with minimal options for an accessory structure.

Second: Mr. Zuniga

In favor: Spielman, Ingalls, Menchaca, Cruz, Zuniga, Manna, Kaplan, Vasquez, Bragman, Ozuna, Oroian.

Opposed: None

Motion Passes.

Item #2

BOA2210300240:(Continued from 2/6/2023) A request by Alvin Peters, applicant, stated the property is zoned "C-3NA". His client is proposing to develop a 2,400 square foot single story structure that consist of 4 lease spaces with 6 parking spaces. He stated buffer will be reduced with trees and ground cover. He further stated he has reached out to Council representative for Districts 5 and 6 to assist in coordinate a meeting with Los Jardines and Westwood Square Neighborhood Association to further discuss and address their concerns who are now in support of this request.

Staff stated 12 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and Los Jardines and Westwood Square Homeowners Association are in opposition.

Ms. Cruz absent from the meeting at 1:04 PM

Chair Oroian recused the meeting at 1:10 PM

Alvin Peters, applicant, stated he has a small lot that the owner wants to develop a small structure on. In past discussion they have made the recommended adjustments to proceed. There have also been some conflicts with the bus stop and parking space lot.

No Public Comment

Ms. Kaplan made a **Motion** for **BOA-22-10300240** for approval.

The motion was made by Commissioner Kaplan. Regarding Case No. **BOA-22-10300240**, I move that the Board of Adjustment grant a request for 1) a 7'-6" variance from the required 15' buffer, to allow a 7'-6" side buffer next to a residential lot, 2) a 9'-9" variance from the required 15' buffer, to allow a 5'-3" side buffer along a Minor Arterial, 3) a 7'-4" variance from the required 10' buffer, to allow a 2'-8" side buffer along a Collector, and 4) a 20' variance from the required 30' side setback, to allow a structure to have a 10' side setback, situated at 995 Southwest 36th Street, applicant being Alvin Peters, 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 landscape variances and side setback variances are not contrary to the public's interest as there are similar lots in the area with landscape and setbacks of what is being proposed.

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

Without the variances the applicant would have to comply to the landscape buffer requirements and side setback requirements. This would result in an unnecessary hardship as the lot is small.

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

Reducing the landscape buffer requirements and side setback requirements will observe the spirit of the ordinance and will not adversely affect surrounding properties in the immediate area.

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

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

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

If granted, the landscape buffer variances and side setback variance will not alter the essential character of the district.

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

conditions in the district in which the property is located.

Staff finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property. The unique character of the business would be hindered by the existing buffer and setback requirement.

Second: Ms. Bragman

In Favor: Spielman, Ingalls, Menchaca, Cruz, Zuniga, Manna, Kaplan, Vasquez, Bragman, Ozuna, Oroian.

Opposed: None

Motion passes.

Item #3

BOA-22-10300258: A request by Morales Design Group for a request for a 15' variance from the minimum 30' rear setback requirement to allow a structure to be 15' from the rear property line, located at 6690 Prue Road. Staff recommends approval. (Council District 8 and 7) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 41 notices were mailed to property owners within 200 feet, 0 returned in favor, 2 returned in opposition, and 21 in opposition outside the 200 feet, Oakland Estates Neighborhood Association and Alamo Farmstead Babcock Road Neighborhood is in opposition.

Mr. Manna recused the meeting at 1:56 PM

Public Comment

Voicemails

Sandra Villabos, spoke in opposition.

Ella Dollfield, spoke in opposition.

Michael Garcia, spoke in opposition.

Leanne Laratii, spoke in opposition.

Tiffany Laratti, spoke in opposition.

Sheryl Lawry, spoke in opposition.

Ismael Castilla Quintania, spoke in opposition.

In Person

Carolyn McDonald, Azul Apartment Representative, stated not approached beforehand on the behalf of Morales Design Group, spoke in opposition.

Steve Cushman, Alamo Farmstead Association, spoke in favor. OR spoke in support with Morales Design Group's request.

Chair Oroian made a **Motion** for **BOA-22-1030258** for approval.

Regarding Case No. **BOA-22-1030258**, I move that the Board of Adjustment grant a request for a

15' variance from the minimum 30' rear setback, to allow structure to be 15' from the rear property line, situated at 6690 Prue Road, applicant being Morales Design Group, 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 for a limited rear setback limited to 300 sq. ft to allow a portion of a structure to be 15' from the rear property line and does not appear to be contrary to the public interest as it will leave sufficient space between the multi-family development to the south.

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 requirement. Staff finds an unnecessary hardship due to the configuration of the lot 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 limited setback is 15' from the rear 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.

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

Second: Ms. Kaplan

In Favor: Oroian, Zuniga, Ingalls, Bragman

Oppose: Spielman, Menchaca, Cruz, Kaplan, Vasquez, Ozuna

Motion Fails.

The meeting went into recess at 2:30 PM and rejoined at 2:40 PM.

Item #4

BOA-22-10300264: A request by Censeo Homes for 1) a variance from the maximum 50% impervious cover requirement, to allow the front yard to exceed the maximum 50% impervious cover to exclude 7523 Casina Run, 2) a variance from the front entry oriented to the primary street, to allow a side door, and 3) a 2' special exception from the 6' maximum height, to allow an 8' solid fence along the rear of the property, located at 7503 - 7627 Casina Run, 14906 - 14915 Casina Knoll and 14902 - 14915 Casina Green. Staff recommends approval for Front Entry Door Variance and Fence Height Special Exception. Staff recommends denial for Impervious Cover Variance. (Council District 8) (Vincent Trevino, Senior Planner (210) 207-5501, Vincent.Trevino@sanantonio.gov, Development Services Department)

Staff stated 47 notices had been mailed out, 0 returned in favor, 0 returned in opposition, and no response from Cedar Point Neighborhood Association.

Ms. Ingalls absent from meeting at 2:30 PM

Rob Wasyliw, applicant, stated he did need a variance on a fence desired to be built for single family homes/lots and is still waiting for confirmation in doing so. Additionally, he requests more room for a driveway to reduce parking on the streets.

No Public Comment

Ms. Kaplan made a **Motion** for **BOA-22-1030024**

Regarding Case No. **BOA-22-10300264**, I move that the Board of Adjustment grant a request for 1) a variance from the maximum 50% impervious cover requirement to allow the front yard to exceed the maximum 50% impervious cover to exclude 7523 Casina Run, and 2) a variance from the front entry oriented to the primary street to allow a side door, situated at 7503-7627 Casina Run; 14906-14915 Casina Knoll; 14902-14915 Casina Green, applicant being Censeo Homes, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

1. The variance is not contrary to the public interest.
The public interest is defined as the general health, safety, and welfare of the public. The applicant is requesting a variance for impervious cover to exceed the 50% minimum. The

regulations are provided to prevent front yards from being covered by impervious surfaces, which can diminish the character of the community. The development will bolster the housing supply and will provide value to the community. The request is not contrary to the public interest.

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

A literal enforcement of the ordinance would result in the applicant needing to either reconfigure the floor plan and build smaller units or eliminate the driveways, as the lot size is relatively small for a duplex. This would result in unnecessary hardship.

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

The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. Impervious coverage requirements are intended to provide a safe environment for the mitigation of water flooding during heavy rain events. Exceeding the 50% impervious coverage requirement appears to observe the spirit of the ordinance as there is no other way to build the homes with parking on the small lot.

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

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

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

If granted, the impervious coverage on the subject property does not pose a threat to adjacent properties as all the properties are undeveloped and will require a similar variance since they have similar lot sizes and zoning. It will not alter the essential character of 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 found that the lot size is too small to realistically conform to the impervious coverage requirements.

Second: Ms. Bragman

In Favor: Spielman, Ingalls, Menchaca, Cruz, Zuniga, Manna, Kaplan, Vasquez, Bragman, Ozuna, Oroian.

Opposed: None

Motion passes.

2nd MOTION

Regarding Case No. **BOA-22-10300264**, I move that the Board of Adjustment grant a request for a 2' special exception from the 6' maximum height to allow an 8' solid fence along the rear of the property, situated at 7503-7627 Casina Run; 14906-14915 Casina Knoll; 14902-14915 Casina Green, applicant being Censeo, 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 fence height being requested is solid fence, located along the rear property line and does not exceed 8' in height. 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 property owners while still promoting a sense of community. The proposed fence being requested will be located along the rear property line and will exceed the maximum height requirement. The solid fence will still 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 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 fence height in the rear yard of the subject property does not appear to 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 requested special exception will not weaken the general purpose of the district.

Second: Ms. Bragman

In Favor: Spielman, Ingalls, Menchaca, Cruz, Zuniga, Manna, Kaplan, Vasquez, Bragman, Ozuna, Oroian.

Opposed: None

Motion passes.**Item #5**

BOA-23-10300009: A request by Daniel Marin for a 4'-11" variance from the minimum 5' side setback requirement to allow a structure with a 10" overhang to be 1" from the side property line, located at 1131 McIlvaine Street. Staff recommends denial with an alternate recommendation. (Council District 1) (Joseph Leos, Planner (210) 207-3074, joseph.leos@sanantonio.gov, Development Services Department)

Staff stated 26 notices had been mailed out, 0 returned in favor, 0 returned in opposition and no response from the Central Neighborhood Association.

Daniel Marin, applicant, stated he was unaware of the property line did not include the chain-link fence and a permit was needed. To make it right he requests a variance change and amends to add gutters.

No Public Comment

Chair Oroian made a **Motion** for **BOA-23-1300009** for approval.

Regarding Case No. **BOA-23-10300009**, I move that the Board of Adjustment grant a request for a 4'-11" variance from the minimum 5' side setback requirement to allow a structure with a 10" overhang to be 1" from the side property line, situated at 1131 McIlvaine Street, applicant being Daniel Marin, 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. In this case, the public interest is represented by setback restrictions to provide ample spacing between structures. The applicant is requesting a variance to the side setback to allow a structure to be 1" from the side property line. Staff finds this distance provides suitable spacing, 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 structure five feet from the side property line, which would result in an unnecessary hardship as the structure is close to completion. Such conditions on the subject property include the fence indicating where the side property line is incorrectly placed, causing the applicant to falsely gauge his buildable area.

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 would be 1” from the side property line, which observes the spirit of the ordinance as it would not be too close to the side property line and neighboring structure.

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 structure over hanging gutters collectively will be 1” from the side property line, 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 unique circumstances existing on the property. Upon site visits, staff observed the property side fence indicating where the property line is incorrectly placed, causing the applicant to falsely gauge his buildable area. The request is merely not financial.

Second: Ms. Bragman

Favor: Ozuna, Spielman, Bragman, Cruz, Zuniga, Manna, Vasquez, Oroian

Oppose: Kaplan, Menchaca,

Motion passes.

Ms. Cruz absent from meeting at 3:13 PM

The meeting went into recess at 3:14 PM and rejoined at 3:19 PM.

Item #6

BOA-23-10300011: A request by Michael Paulos for a 4’-8” variance from the minimum 5’ side setback requirement, to allow an accessory structure with a 3” overhang to be 4” from the side property line, located at 3302 Carnaby Creek Drive. Staff recommends denial with an alternate recommendation. (Council District 10) (Joseph Leos, Planner (210) 207-3074, joseph.leos@sanantonio.gov, Development Services Department)

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

Michael Paulos, owner, states he was unaware a permit was needed to replace an accessory structure (storage shed). He wants to make it right and request a variance.

No Public Comment

Ms. Bragman made a **Motion** for **BOA-23-10300011** for approval.

Regarding Case No. **BOA-23-10300011**, I move that the Board of Adjustment grant request for a 4'-8" variance from the minimum 5' side setback requirement to allow an accessory structure with a 3" overhang to be 4" from the side property line, situated at 3302 Carnaby Creek Drive, applicant being Michael Paulos, 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. In this case, the public interest is represented by setback restrictions to provide ample spacing between property line and structures. The applicant is requesting a variance to the side setback to allow a structure with a 3" overhang to be 4" from the side property line. Staff finds this distance is suitable, as it is not too close to the neighbors shared property line.

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

A literal enforcement of the ordinance would result in the applicant building the structure five feet from the side property line, which would result in an unnecessary hardship as the structure is already constructed. Additionally, special conditions on the subject property include the accessory structure having the same slab foundation as the previous structure and would be challenging to relocate.

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 would be 4" from the side property line, which observes the spirit of the ordinance as it would not be too close to the side property line and neighboring structure.

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 structure will be 4" from the side property line, which is not likely to alter the essential character of the district, as other accessory structures were observed in the

immediate 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 shape of the side yard is irregular in shape.

Second: Ms. Kaplan

In Favor: Spielman, Menchaca, Zuniga, Manna, Kaplan, Vasquez, Bragman, Ozuna, Oroian.

Opposed: None

Motion passes.

Item # 7

BOA-23-10300014: A request by Robert W. Carey for a 15' variance from the required 15' buffer, to allow the elimination of a buffer on the west and north property lines, located at 9336 West Loop 410. Staff recommends denial with an alternate recommendation. (Council District 3) (Jacob Exler, Planner, (210) 207-5876, Jacob.Exler@sanantonio.gov, Development Services Department)

Staff stated 10 notices had been mailed out, 0 returned in favor, 0 returned in opposition and no response from San Juan Gardens nor Villa Coronado Neighborhood Associations.

Robert Carey, owner, stated the purpose of this request is to allow for development self-storage for company on the subject property. The buildings purchased are designed a specific way and requires more room for loading/unloading. He requests a buffer on north side due to buildings structure and the setup of the property. He amended his request to remove the buffer on the northside of property.

Public Comment

Voicemail

Olga Martinez, spoke in opposition.

Chair Oroian made a **Motion** for **BOA-23-10300014** for approval.

Regarding Case No. **BOA-23-10300014**, I move that the Board of Adjustment grant a request for a 15' variance from the required 15' buffer to allow the elimination of a buffer on the west and north property lines, situated at 9336 West Loop 410, applicant being Robert Carey, 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 reduced buffer will leave enough room between properties to reduce noise and so is not contrary to the public interest.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
The full landscape buffer would reduce the amount of space the applicant can build on the property.
3. *By granting the variance, the spirit of the ordinance will be observed, and substantial justice will be done.*
The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. The reduced landscape buffer will observe the spirit of the ordinance as it will leave space between 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 reduced landscape buffer will not substantially injure the appropriate use of adjacent properties as the buffer variances being sought after are not on sides directly bordering occupied 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 reduced landscape variances are sought is due to unique circumstances existing on the property, such as the location of the property.

Second: Mr. Manna

In Favor: Spielman, Menchaca, Zuniga, Manna, Kaplan, Vasquez, Bragman, Ozuna, Oroian.

Opposed: None

Motion passes.

Chair Oroian amends applying buffer on the north and south side.

Item #8

BOA-23-10300015: A request by Omar Trevino for a 1' variance from the 5' minimum rear setback requirement, to allow a structure to be on the property line (with 4' credit from the alley), located at 1010

West Wildwood Drive. Staff recommends approval. (Council District 1) (Jacob Exler, Planner, (210) 207-5876, Jacob.Exler@sanantonio.gov, Development Services Department)

Staff stated 35 notices had been mailed out, 0 returned in favor, 0 returned in opposition, and no response from Los Angeles Heights Neighborhood Association.

Omar Trevino, owner, stated the purpose of this request is to develop an accessory structure on an existing residential home on the subject property due to the lack of parking.

No Public Comment

Mr. Manna made a **Motion** for **BOA-23-10300015** for approval.

Regarding Case No. **BOA-23-10300015**, I move that the Board of Adjustment grant a request for a 1' variance from the 5' minimum rear setback requirement to allow a structure to be on the property line (with 4' credit from the alley), situated at 1010 West Wildwood Drive, applicant being Omar Trevino, 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.*
There is adequate space between the structure and neighboring houses and so it 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 unnecessary hardship as there is already an existing structure.
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 reduced rear setback requirement is in the spirit of the ordinance as there is an alley that provides adequate space between the structure and 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.*
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 reduced rear setback requirement will not substantially injure the appropriate use of adjacent properties as there is an alley in the rear.

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 variances are sought is due to unique circumstances existing on the property, such as the location of the property.

Second: Mr. Zuniga

Motion Passes.

Item #9

BOA-23-10300018: A request by Israel Gonzalez for 1) a 5'-6" variance from the 10' front setback requirement to allow a carport to be 4'-6" from the property line, 2) a 4'-11" variance from the 5' side setback requirement to allow a carport with a 12" overhang to be 1" from the property line, 3) a variance to allow a corrugated metal fence in the rear and back yard, and 4) a variance from the maximum 50% impervious cover requirement to allow the front yard to exceed the 50% impervious cover, located at 1114 Lee Hall. Staff recommends denial. (Council District 1) (Jacob Exler, Planner, (210) 207-5876, Jacob.Exler@sanantonio.gov, Development Services Department)

Staff stated 36 notices had been mailed out, 0 returned in favor, 1 returned in opposition, and there is no registered neighborhood association.

Israel Gonzalez, applicant, stated his intent to build a carport due to water getting in house, but built it without a permit.

Public Comment

Aurora Vasquez, spoke in opposition.

Mr. Manna made a **Motion** for **BOA-23-10300018** for approval.

Regarding Case No. **BOA-23-10300018**, I move that the Board of Adjustment grant a request for 1) a 5'-6" variance from the 10' front setback requirement to allow a carport to be 4'-6" from the property line, 2) a 4'-11" variance from the 5' side setback requirement to allow a carport with a 12" overhang to be 1" from the property line, 3) a variance to allow a corrugated metal fence in the rear and back yard, and 4) a variance from the maximum 50% impervious cover requirement to allow the front yard to exceed the 50% impervious cover, situated at 1114 Lee Hall, applicant being Israel Gonzalez, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

The carport is 4'6" from the front property line and so is not contrary to the public interest. Allowing a 1" side setback variance would not injure the neighboring property. Corrugated

metal is found in the area. Additionally, the impervious cover exceeding 50% does not injure neighboring properties.

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

A literal enforcement of the ordinance would result in unnecessary hardship as there is already an existing carport, fence, and driveway.

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 reduced front and side setback requirement would not injure neighboring properties and the corrugated metal fence and impervious cover are in line with 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.*

The reduced front and side setback requirements would not injure neighboring properties as the carport will be on the owner's property. Other corrugated metal fences and excessive impervious cover was observed in the area.

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

Staff finds the plight of the owner of the property for which the variances are sought is due to unique circumstances existing on the property, such as the location of the property.

Second: Ms. Kaplan

Favor: None

Oppose: Zuniga, Manna, Vasquez, Kaplan, Menchaca, Spielman, Bragman, Ozuna, Oroian

Motion Fails.

Item#10 Approval of the minutes from Zoning Board of Adjustments meeting on February 20, 2023

All voted in affirmative.

Motion Passes.

Adjournment

There being no further business, the meeting was adjourned at 4:48 P.M.

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary