



DRAFT

Board of Adjustment Minutes

Development and Business Services

Center

1901 South Alamo

November 15, 2021

1:00PM

1901 S. Alamo

Board of Adjustment Members

A majority of appointive Members shall constitute a quorum.

Donald Oroian, District 8, Chair

Andrew Ozuna, Mayor, Vice Chair

Seth Teel, District 6, Pro-Tem

Vacant, District 1 | Scott Albert, District 2

Abel Menchaca, District 3 | George Britton, District 4 |

Maria Cruz, District 5 | Phillip Manna, District 7

Kimberly Bragman, District 9 | Jonathan Delmer, District 10

Alternate Members

Patrick Conroy | Elizabeth Ingalls | Jo-Anne Kaplan | Lisa Lynde

Lillian Miess | Jesse Vasquez | Jesse Zuniga

1:03 P.M. - Call to Order

- Roll Call

- Present: Kaplan, Albert, Conroy, Vasquez, Manna, Lynde, Zuniga, Miess, Teel, Ozuna, Oroian

- Absent: Britton, Cruz, Delmer, Menchaca, Bragman

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 (Continued from 10/18/2021) **BOA-21-10300154:** A request by Paul El-Bayeh for 1) variance from the Accessory Structure Standards to allow an accessory structure in the front yard, and 2) a 5' variance from the 15' minimum front setback to allow an accessory structure to be 10' from the front property line, located at 9318 Oakland Road. Staff recommends Denial. (Council District 8) (Kayla Leal, Principal Planner (210) 207-0197, kayla.leal@sanantonio.gov, Development Services Department)

Staff stated 11 notices were mailed to property owners within 200 feet, 1 returned in favor, 0 returned in opposition, and the Oakland Estates Neighborhood Association was neither for or against the variance request.

Paul El-Bayeh, applicant, requested a variance to keep an accessory structure in the front yard of property as protection for his horses.

Public Comment:

Video:

Odell Allen, 5679 Encino Park Rd, favor.

The Board asked the applicant questions concerning the request. The Applicant responses were heard by the board as well as other testimonies offered, followed by a discussion among board members before the vote.

Chair Oroian asked for a motion for item BOA-21-10300154 as presented.

Mr. Ozuna made a **motion** for BOA-21-10300154 for approval.

Regarding Case No. BOA-21-10300154, I move that the Board of Adjustment grant a request for 1) variance from the Accessory Structure Standards to allow an accessory structure in the front yard, and 2) a 5' variance from the 15' minimum front setback to allow an accessory structure to be 10' from the front property line, situated at 9318 Oakland Road, applicant being Paul El-Bayeh, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

The public interest is defined as the general health, safety, and welfare of the public. The request to allow a detached accessory structure in the front yard is not contrary to the public interest.

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

The Board finds that any special conditions that, if enforced, would result in an unnecessary hardship. By imposing a literal enforcement, the accessory structure would need to be relocated to the side or rear of the property.

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

The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. Substantial justice will be done by keeping the accessory structure in the front yard.

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

The variance will not authorize the operation of a use other than those uses specifically authorized by the district.

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

The proposed structure does not cause any concern and does not appear to substantially injure uses of adjacent conforming properties. The structure does not appear to alter the essential character of the district.

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

The Board finds the plight of the owner of the property for which the variance is not sought is due to unique circumstances existing on the property. The circumstances were not created by the owner and are not merely financial.

Second: Manna

In Favor: Albert, Conroy, Vasquez, Zuniga, Miess, Teel, Ozuna, Oroian

Opposed: Kaplan, Manna, Lynde

Motion Fails

Item #2

BOA-21-10300158: A request by TX 3 Properties, LLC for a request to appeal an HDRC decision, located at 615 East Evergreen Street. Staff recommends Denial. (Council District 1) (Rachel Rettaliata, Historic Preservation Specialist, (210) 207-0145, Rachel.Rettaliata@sanantonio.gov, Office of Historic Preservation; Kayla Leal, Principal Planner (210) 207-00197, Kayla.Leal@sanantonio.gov, Development Services Department)

Staff stated 28 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and no response from the Tobin Hill Neighborhood Association.

Joseph Calderoni, applicant, requested an appeal to an Administrative Official (OHP) decision to replace historic windows on property.

Rachel Rettaliata, Office of Historic Preservation, presented a presentation to the board members regarding the case history for the property from the HDRC.

Edward Hall, Office of Historic Preservation, answered the board members questions.

The Board asked the applicant questions concerning the request. The Applicant responses were heard by the board as well as other testimonies offered, followed by a discussion among board members before the vote.

Public Comment:

Voicemails:

Frederica Kushner, 405 E Myrtle St, opposed.

Shelly Eisenberg, 618 E Evergreen St, favor.

Reyes Lucio, 610 E Park Ave, favor.

Chair Oroian asked for a motion for item BOA-21-10300158 as presented.

Mr. Teel made a **motion** for BOA-21-10300158 for approval.

Regarding Case No. BOA 21-10300158, I move that the Board of Adjustment grant an Appeal to an Administrative Official (OHP) Decision, situated at 615 East Evergreen Street, applicant being Joseph Calderoni.

Second: Ozuna

In Favor: Zuniga, Miess, Teel, Ozuna, Oroian

Opposed: Kaplan, Albert, Conroy, Vasquez, Manna, Lynde

Motion Fails

Item #3

BOA-21-10300144: A request by Adrian Buck for a variance from the NCD-7 Jefferson Neighborhood Conservation District design standards to allow non-discreet solar panels on the front facing roof of a primary structure, located at 103 Cromwell. Staff recommends Denial. (Council District 7) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Staff stated 25 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition, and no response from the Jefferson and Monticello Park Neighborhood Association.

Brian Marley, representative of Freedom Solar, requested a variance to allow non-discreet solar panels on front roof of the primary structure.

Terry Arbeiter, property owner, requested a variance to allow solar panels on the front facing roof of property to use for protection from severe weather.

Public Comment:

Voicemail:

Bianca Maldonado, Monticello Park Neighborhood Association representative requested for a continuance to December 6, 2021 due to case notification issues.

Chair Oroian asked for a motion for item BOA-21-10300144, to be continued to the December 6, 2021 Board of Adjustment Meeting.

Mr. Manna made a **motion** for BOA-21-10300144, for approval.

Second: Conroy

In Favor: Kaplan, Albert, Conroy, Vasquez, Manna, Lynde

Opposed: Zuniga, Miess, Teel, Ozuna, Oroian

BOA-21-10300144 continued to the December 6, 2021 Board of Adjustment Meeting.

Item #4

BOA-21-10300155: A request by Carlos Saucedo for 1) a 110 square foot variance from the 40% maximum square footage allowance for an Accessory Detached Dwelling Unit (ADDU) to allow an ADDU to be 600 square feet and 2) a 13' 7" variance from the 20' minimum garage setback to allow a garage to be 6' 5" from the property line., located at 599 Lively Street. Staff recommends Approval. (Council District 1) (Kayla Leal, Principal Planner (210) 207-0197, kayla.leal@sanantonio.gov, Development Services Department)

Staff stated 22 notices were mailed to property owners within 200 feet, 1 returned in favor, 1 returned in opposition, and no response from the Dellview Area Neighborhood Association.

Carlos Saucedo, applicant, requested a variance for an Accessory Detached Dwelling Unit (ADDU) to take advantage of his land space on property and to utilize the unit for his parents.

No Public Comment

The Board asked the applicant questions concerning the request. The Applicant responses were heard by the board as well as other testimonies offered, followed by a discussion among board members before the vote.

Chair Oroian asked for a motion for item BOA-21-10300155, as presented.

Mr. Teel made a **motion** for BOA-21-10300155 for approval.

Regarding Case No. BOA-21-10300155, I move that the Board of Adjustment grant a request for 1) a 110 square foot variance from the 40% maximum square footage allowance for an Accessory Detached Dwelling Unit (ADDU) to allow an ADDU to be 600 square feet, situated at 599 Lively Street, applicant being Carlos Saucedo 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 variance to convert an existing detached garage into an accessory detached dwelling unit, and the existing garage currently does not abide by the 20' garage setback. The variances requested do not appear to be contrary to the public interest.

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

The Board finds that any special conditions that, if enforced, would result in an unnecessary hardship. By imposing a literal enforcement, the applicant would need to reduce the footprint of the existing structure which presents an unnecessary hardship.

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

The existing structure is currently 600 square feet, which exceeds the maximum by about 110 square feet. The request appears to observe the spirit of the ordinance and substantial justice will be done.

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

The variance will not authorize the operation of a use other than those uses specifically authorized by the district.

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

The structure is already existing and does not appear to substantially injure adjacent properties nor 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 Board finds that the plight of the property owner is sought due to the unique circumstances existing on the property and do not appear to be merely financial.

Second: Manna

In Favor: Kaplan, Albert, Conroy, Vasquez, Manna, Lynde, Zuniga, Miess, Manna, Teel, Ozuna, Oroian

Opposed: None

Motion Granted

Chair Oroian called for the Board of Adjustment to take a recess at 3:22 pm. The Board of Adjustment reconvened at 3:31 pm. Chair Oroian recused from the Board of Adjustment meeting at 3:33 pm. Vice Chair Ozuna was acting chair.

Item #5

BOA-21-10300148: A request by Monica Naves Ayuardo for 1) a 2' variance from the 5' minimum side setback to allow a structure to be 3' from the side property line, 2) a 875 sq. ft. lot size variance from the minimum 4,000 sq. ft requirement to allow a lot size of 3,125 sq. ft. and 3) a 10' variance from the minimum lot width requirement of 35' to allow a lot width of 25', located at 1723 and 1727 East Crockett Street. Staff recommends Approval. (Council District 2) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Staff stated 44 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition. No response from the Jefferson Heights Neighborhood Association.

Applicant unable to attend Board of Adjustment Meeting and requested a continuance to the December 6, 2021 meeting.

Public Comment:

Reena Quintanilla, 1721 E Crockett St., opposed.

Vice Chair Ozuna asked for a motion for item BOA-21-10300148, to be continued to the December 6, 2021 Board of Adjustment Meeting.

Mr. Teel made a **motion** for BOA-21-10300148 for approval.

Second: Manna

In Favor: Kaplan, Albert, Conroy, Vasquez, Manna, Lynde, Zuniga, Miess, Teel, Ozuna

Opposed: None

BOA-21-10300148 continued to the December 6, 2021 Board of Adjustment Meeting.

Chair Oroian returned to the meeting at 3:42 pm.

Item #6 **BOA-21-10300132:** A request by Lorenzo Herrera for a 3' 3" variance from the 5' minimum side setback to allow an accessory structure with 1' of overhang to be 1' 9" from the side property line, located at 2415 Ravina Drive. Staff recommends Denial with an Alternate Recommendation. (Council District 3) (Kayla Leal, Principal Planner (210) 207-00197, Kayla.Leal@sanantonio.gov, Development Services Department)

Staff stated 22 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and no response from the Jupe Manor Neighborhood Association.

Septec translator assisted the applicant for translation services at the podium.

Casilda Valiente, applicant, requested a variance to keep an accessory structure in her back yard to use for shade and formally amended her application request to add gutters.

No Public Comment

The Board asked the applicant questions concerning the request. The Applicant responses were heard by the board as well as other testimonies offered, followed by a discussion among board members before the vote.

Chair Oroian asked for a motion for item BOA-21-10300132 as presented.

Mr. Ozuna made a **motion** for. BOA-21-10300132 for approval.

Regarding Case No. BOA-21-10300132, I move that the Board of Adjustment grant a request for a 3' 3" variance from the 5' minimum side setback to allow an accessory structure with 1' of overhang to be 1' 9" from the side property line, situated at 2415 Ravina Drive, applicant being Lorenzo Herrera because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

The public interest is defined as the general health, safety, and welfare of the public. The requested variance does not appear to be contrary to the public interest as the applicant will provide adequate space from adjacent structures.

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

The Board finds that any special conditions that, if enforced, would result in an unnecessary hardship. By imposing a literal enforcement, the applicant would need to relocate the structure 5' from the side property line.

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 spirit of the ordinance is observed as the structure is currently 1' 9" away from the side property line.

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

The variance will not authorize the operation of a use other than those uses specifically authorized by the district.

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

The request to reduce a the side setback for an accessory structure does not pose a risk of substantially injuring the use of adjacent properties and does not seem likely to alter the essential character of the district. Applicant has committed to amend the application request to include the addition of gutters.

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

The Board finds that the plight of the property owner is sought due to the unique circumstances existing on the property and does not appear to be merely financial.

Second: Manna

A Friendly Amendment was made by Mr. Manna, that stated the applicant amended their request to include gutters.

In Favor: Kaplan, Albert, Conroy, Vasquez, Manna, Lynde, Zuniga, Miess, Teel, Ozuna, Oroian

Opposed: None

Motion Granted

Item #7 **BOA-21-10300138:** A request by Leticia Velazquez for a 3' 6" variance from the 5' minimum side setback to allow a carport with 4" of overhang to be 1' 6" away from the side property line, located at 607 Brady Boulevard. Staff recommends Denial with an Alternate Recommendation. (Council District 5) (Kayla Leal, Principal Planner (210) 207-0197, Kayla.Leal@sanantonio.gov, Development Services Department)

Staff stated 31 notices were mailed to property owners within 200 feet, 4 returned in favor, 1 returned in opposition, and no response from the El Charro Neighborhood Association.

Leticia Velazquez, applicant, requested a variance to keep her carport and formally amended her application to include the addition of gutters.

Public Comment:

Written:

Mary Jane Sanchez, 2111 Keck, favor.**Josefa Alvarado**, 611 Brady Blvd, favor.

The Board asked the applicant questions concerning the request. The Applicant responses were heard by the board as well as other testimonies offered, followed by a discussion among board members before the vote.

Chair Oroian asked for a motion for item BOA-21-10300138, as presented.

Mr. Manna made a **motion** for BOA-21-10300138 for approval.

Regarding Case No. BOA-21-10300138, I move that the Board of Adjustment grant a request for 3'6" variance from the 5' minimum side setback to allow a carport with 4" of overhang to be 1' 6" away from the side property line, situated at 607 Brady Boulevard, applicant being Leticia Velasquez because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

The public interest is defined as the general health, safety, and welfare of the public. The requested variance is not contrary to the public interest as the applicant will provide adequate space from adjacent structures.

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

The Board finds that any special conditions that, if enforced, would result in an unnecessary hardship. By imposing a literal enforcement, the applicant would need to relocate the structure 5' from the side property line which would reduce the width of 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 is defined as the intent of the code, rather than the exact letter of the law. The request to reduce the side setback appears to observe the spirit of the ordinance.

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

The variance will not authorize the operation of a use other than those uses specifically authorized by the district.

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

The request to reduce a portion of the side setback does not appear to injure adjacent properties or to alter the essential character of the district. The applicant has amended their application request to include the addition of gutters.

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

The Board finds that the plight of the property owner is sought due to the unique circumstances existing on the property and is not merely financial.

Second: Teel

In Favor: Kaplan, Albert, Conroy, Vasquez, Manna, Lynde, Miess, Teel, Ozuna, Oroian

Opposed: Zuniga

Motion Granted

Item #8

BOA-21-10300153: A request by Antonio and Lupe Centeno for a 5' variance from the 10' minimum front setback to allow a carport with 3' overhang to be 5' from the front property line, located at 7934 Veleta Street. Staff recommends Denial. (Council District 7) (Kayla Leal, Principal Planner (210) 207-00197, Kayla.Leal@sanantonio.gov, Development Services Department)

Staff stated 25 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition, and no registered neighborhood association.

Applicant unable to attend Board of Adjustment Meeting and requested a continuance to the December 20, 2021 meeting.

No Public Comment

Chair Oroian asked for a motion for item BOA-21-10300153 to be continued to the December 20, 2021 Board of Adjustment Meeting.

Mr. Manna made a **motion** for BOA-21-10300153 for approval.

Second: Conroy

In Favor: Kaplan, Albert, Conroy, Vasquez, Manna, Lynde, Zuniga, Miess, Teel, Ozuna, Oroian

Opposed: None

BOA-21-10300153 continued to the December 20, 2021 Board of Adjustment meeting.

Item #9 **BOA-21-10300150:** A request by Jonathan Rackler for a 4' 4" variance from the 5' minimum side setback requirement to allow a new carport to be 8" from the side property line, located at 4923 Greenwood. Staff recommends Denial with an Alternate Recommendation. (Council District 3) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Staff stated 23 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and no registered neighborhood association.

Jonathan Rackler, applicant, requested a variance to construct a new carport on side of property for protection from severe weather.

No Public Comment

The Board asked the applicant questions concerning the request. The Applicant responses were heard by the board as well as other testimonies offered, followed by a discussion among board members before the vote.

Chair Oroian asked for a motion for item BOA-21-10300150, as presented.

Mr. Manna made a **motion** for BOA-21-10300150 for approval.

Regarding Case No. BOA-21-10300150, I move that the Board of Adjustment grant a request for a 4' 4" variance from the 5' minimum side setback starting at the front of the house for 30' to allow a new carport to be 8" from the side property line, situated at 4923 Greenwood Drive, applicant being Jonathan Rackler because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

The public interest is defined as the general health, safety, and welfare of the public. The request to allow a carport encroachment into the side setback is not contrary to the public interest as the applicant has adequate space from the adjacent structure.

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

The Board finds that any special conditions that, if enforced, would result in an unnecessary hardship. By imposing a literal enforcement, the carport width would need to be adjusted to 5' which would reduce the amount of space for parking of a vehicle.

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

The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. The intent of the setbacks is to provide spacing between neighboring structures which is observed.

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

The variance will not authorize the operation of a use other than those uses specifically authorized by the district.

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

The request to reduce a portion of the side setback does not pose a risk of substantially injuring the use of adjacent properties and does not seem likely to alter the essential character of the district. This property is located within an older neighborhood, and there are other non-conforming carports encroaching into the side setbacks. The applicant has amended his application to include the addition of gutters.

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

The Board finds that the plight of the property owner is sought due to the unique circumstances existing on the property due to the short width of available space for a carport.

Second: Teel

In Favor: Kaplan, Albert, Conroy, Vasquez, Manna, Lynde, Zuniga, Miess, Teel, Ozuna, Oroian

Opposed: None

Motion Granted

Item #10 **BOA-21-10300149:** A request by Pedro Rodriguez for a 3' special exception from the 5' maximum fence height to allow an 8' solid screen fence in the front yard, located at 17460, 17540 Blanco, and 102 Lariat. Staff recommends Approval. (Council District 9) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Staff stated 169 notices were mailed to property owners within 200 feet, 4 returned in favor, 0 returned in opposition, and no response from the Canyon Creek Estates Neighborhood Association.

Pedro Rodriguez, applicant, requested a special exception to install an 8' fence on Blanco to ease traffic noise and to replace fence on Lariat due to its condition and safety reasons.

Public Comment:

Dennis Means, 107 Lariat, favor.

Michael Ulmer, 17548 Blanco, favor.

Voicemail:

Donald York, President of the Canyon Creek POA, opposed.

The Board asked the applicant questions concerning the request. The Applicant responses were heard by the board as well as other testimonies offered, followed by a discussion among board members before the vote.

Chair Oroian asked for a motion for item BOA-21-10300149 as presented.

Chair Oroian made a **motion** for BOA-21-10300149 for approval.

Regarding Case No. BOA-21-10300149, I move that the Board of Adjustment grant a special exception from the 5' maximum fence height to allow an 8' solid screen fence in the front yard, situated at 102 Lariat, 17460 Blanco Road, and 17540 Blanco Road, applicant being Pedro Rodriguez, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

A. The special exception will be in harmony with the spirit and purpose of the chapter.

The UDC states the Board of Adjustment can grant a special exception for a fence height modification. The additional fence height is intended to provide additional safety and privacy for the property as they are facing a highly-trafficked arterial road.

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. A 8' solid screened fence along the front yard on the properties for Blanco does not pose any adverse effects to the public welfare.

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

The Board finds that the fence will create enhanced security for the subject property and is unlikely to injure adjacent properties.

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

The additional height for the section of front yard fence will not alter the essential character of the district and will provide security 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: Manna

In Favor: Kaplan, Albert, Conroy, Vasquez, Manna, Lynde, Zuniga, Miess, Teel, Ozuna, Oroian

Opposed: None

Motion Granted

Item #11

BOA-21-10300152: A request by Amanda Carollo for 1) a 4' 8" variance from the 5' minimum side setback requirement to allow an accessory structure to be 4" from the side property line, 2) a 4' 4" variance from the 5' minimum rear setback requirement to allow an accessory structure to be 8" from the rear property line, and 3) 5' 6" variance from the 6' maximum fence height to allow an 11' 6" fence in the rear yard, located at 3906 Cordoba Creek. Staff recommends Denial with an Alternate Recommendation. (Council District 10) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Staff stated 17 notices were mailed to property owners within 200 feet, 1 returned in favor, 1 returned in opposition, and no response from the Valencia Enclave Home Owners Association.

Amanda Carollo, applicant, requested a variance to install a pergola on her side property line for privacy and shade.

Public Comment:

Written:

Robert Brassfield, 3902 Cordoba Creek, opposed.

The Board asked the applicant questions concerning the request. The Applicant responses were heard by the board as well as other testimonies offered, followed by a discussion among board members before the vote.

Chair Oroian asked for a motion for item BOA-21-10300152, as presented.

Mr. Ozuna made a **motion** for BOA-21-10300152 for approval.

Regarding Case No. BOA-21-10300152, I move that the Board of Adjustment grant a request for 1) a 4' 8" variance from the 5' minimum side setback requirement to allow an accessory structure to be 4" from the side property line, 2) a 4' 4" variance from the 5' minimum rear setback requirement to allow an accessory structure to be 8" from the rear property line, and 3) 5' 6" variance from the 6' maximum fence height to allow 11' 6" fencing in the rear yard which was identified by the site plan they provided, situated at 3906 Cordoba Creek, applicant being Amanda Carollo because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

The public interest is defined as the general health, safety, and welfare of the public. The request to allow the structures encroach into the side and rear setback is not contrary to the public

interest as the applicant has adequate space from the adjacent structure. The height variance does not appear contrary to the public interest as it is providing additional screening for the rear yard.

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

The Board finds that any special conditions that, if enforced, would result in an unnecessary hardship. By imposing a literal enforcement, the structure would need to be adjusted to 5' on the side and rear which would result in removing the structure entirely and reducing the privacy for the homeowners.

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 intent of the setbacks is to provide spacing between neighboring structures which is observed. The spirit of the ordinance will also be observed by granting the height variance for the fencing.

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

The variance will not authorize the operation of a use other than those uses specifically authorized by the district.

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

The request to reduce the side and rear setback do not pose a risk of substantially injuring the use of adjacent properties and does not seem likely to alter the essential character of the district.

This property is located within a newer neighborhood, and there are other non-conforming structures encroaching into the side and rear setbacks.

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

The Board finds that the plight of the property owner is sought due to the unique circumstances existing on the property due to the change in grade and the fact that it abuts a commercial property to the rear.

Second: Miess

In Favor: Kaplan, Albert, Conroy, Vasquez, Manna, Lynde, Zuniga, Miess, Teel, Ozuna, Oroian

Opposed: None

Motion Granted

Item #12 Consideration and approval of November 1, 2021 Board of Adjustment meeting minutes.

Motion: Chair Oroian asked for a motion for approval of November 1, 2021 minutes as amended.

Mr. Manna made a **motion** for approval of the November 1, 2021 minutes as amended.

Second: Kaplan

In Favor: Kaplan, Albert, Conroy, Vasquez, Manna, Lynde, Zuniga, Miess, Teel, Ozuna, Oroian

Opposed: None

Minutes approved with corrections

Adjournment

There being no further business, the meeting was adjourned at 5:17 p.m.

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary