

City of San Antonio



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

Monday, May 20, 2024

1:00 PM

1901 S. Alamo

The meeting was called to by order by Chair Oroian at 1:00 PM and roll was called by Monica Reyes-Urdiales noting the following members present:

Roll Call – Present: Brereton, Dean, Stevens, Cruz, Manna, Ozuna, Benavides, Vasquez, Bragman, Oroian, Ybanez (in at 1:04 PM)

Absent: Gomez

Worldwide Interpreter present.

Withdrawn

Item #1 - BOA-23-10300263

Item #2 - BOA-24-10300035

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

Item #3

BOA-24-10300059: A request by Juan Hernandez for 1) a 29’-11” variance from the minimum 30’ setback to allow a structure with a 1” rear setback, and 2) a fence material variance to allow a corrugated metal fence on the property, located at 2423 Rigsby Avenue. Staff recommends Denial. (Council District 2) (Melanie Clark, Planner, 210-207-5550, melanie.clark@sanantonio.gov, Development Services Department)

Staff stated 6 notices were mailed to property owners, 0 returned in favor, 1 returned in opposition. No registered Neighborhood Association.

Juan Hernandez, property owner, requested fence variance to keep shop on property secured and his pets protected. Applicant verbally amended application to include gutters on structure.

No Public Comment

A motion was made by Commissioner Manna. Regarding Case No. BOA-24-10300059, I move that the Board of Adjustment grant a request for 1) a 29' variance from the minimum 30' setback to allow a 18'x30' accessory structure with a 1' rear setback, and 2) a fence material variance to allow a corrugated metal fence on the property, situated at 2423 Rigsby Avenue, applicant being Juan Hernandez 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.*

Staff finds the requests do not appear to be contrary to the public interest as the corrugated metal helps to reenforce security of the property and the rear setback abuts a vacant lot.

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

A literal enforcement of the ordinance would cause an unnecessary hardship, as the corrugated metal fence is located primarily on the rear property line and the rear setback variance would require relocating an established accessory 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 will be observed with the approval of the corrugated metal fence as it would provide an element of security and safety to the property owner, and the proposed structure will still maintain a reasonable distance between the structure and the surrounding properties.

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

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

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

Staff finds that a 1' rear setback would not alter the essential character of the neighborhood and the use of corrugated metal fencing provides separation between adjacent lots.

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

The variances sought are due to unique circumstances existing on the property as the subject property is located within a reasonable distance from neighboring residential properties and structures.

The motion was seconded by Commissioner Benavides

Favor: Manna, Benavides, Stevens, Ybanez, Cruz, Bragman, Ozuna, Vasquez, Oroian

Opposed: Brereton, Dean

MOTION PASSES

Item #4

BOA-24-10300061: A request by Philip Kraemer for 1) a fencing material variance to allow corrugated metal on the side and rear yard, 2) a 4'-11" variance from the minimum 5' setback to allow a structure with a 1" side setback, 3) a 2' special exception from the maximum 6' height to allow an 8' privacy fence on the side and rear yards, 4) a variance from the Beacon Hill Area Neighborhood Conservation District carport vertical support or structure elements to match principal structure materials, 5) a 4'-11" variance from the minimum Beacon Hill Area Neighborhood Conservation District 5' carport recess standard to allow a 1" carport recess from the front façade, located at 723 West Elsmere Place. Staff recommends Denial. (Council District 1) (Melanie Clark, Planner, 210-207-5550, melanie.clark@sanantonio.gov, Development Services Department)

Staff stated the applicant, Philip Kraemer, requested a continuance until the June 17th meeting.

Public Comment

Voicemail

Daniel Hubbling, 1025 W Huisache – spoke in opposition.

Wayne Thomas, 702 & 712 W Elsmire – spoke in favor.

Motion

A motion was made by Commissioner Manna to continue item to June 17th.

The motion was seconded by Commissioner Cruz.

A verbal vote was taken, and all voted in affirmative.

MOTION PASSES

Item #5

BOA-24-10300070: A request by Virginia Salinas for 1) a 4' variance from the minimum 5' side setback to allow a 1' side setback, 2) a 3' special exception from the maximum 3' fence height to allow a 6' fencing the front yard, located at 138 Marlana Drive. Staff recommends Denial for the Side Setback Variance. Staff recommends Approval for the Fence Height Special Exception limited

to 20' from the front façade. (Council District 1) (Colton Unden, Planner, 210-207-0120, Colton.Unden2@sanantonio.gov, Development Services Department)

Staff stated 31 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, No registered Neighborhood Association.

Virginia Salinas, Applicant, stated the carport was needed to protect their vehicles.

Dustin Strickland, Builder, presented a drawing of the proposed carport. Applicant was available for questions.

No Public Comment

A motion was made by Commissioner Manna. Regarding Case No. BOA-24-10300070, I move that the Board of Adjustment grant a request for a 3' special exception from the maximum 3' fence height to allow a 6' fence limited to 20' from the house on the front yard, situated at 138 Marlana Drive, applicant being Virginia Salinas, 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.

If granted the special exception is not contrary to the spirit and purpose of the chapter as it will be limited to no more than 20 feet past the front façade.

B. The public welfare and convenience will be substantially served.

The proposed fence will add to the protection of the property and add to the sense of security in the area.

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

The proposed 6 feet privacy fence within 20 feet of the front façade would be along Marlana Drive and would not injure neighboring properties as the fence does not obstruct the line of sight for oncoming vehicles.

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.

Upon inspection of the district and location, the fence at its proposed design will not alter the essential characteristics 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

If granted, the special exception will not alter the general purpose of the district, or the regulations herein established for the specific district. The proposed fence exceeds the height regulations by 3-feet and will enhance the security of the property.

Motion

The motion was seconded by Commissioner Benavides.

Favor: Manna, Benavides, Brereton, Stevens, Ybanez, Dean, Cruz, Bragman, Vasquez, Ozuna, Oroian

Opposed: None

MOTION PASSES

A motion was made by Commissioner Manna. Regarding Case No. BOA-24-10300070, I move that the Board of Adjustment grant a request for a 4' variance from the minimum 5' side setback to allow a 1' side setback for a 70' long carport structure with gutters, situated at 138 Marlena Drive, applicant being Virginia Salinas, 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 setback provides adequate spacing between properties, and water run-off will not impose on the adjacent property, which are both not contrary to the public interest.

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

The special condition found is the narrowness of the subject property. A literal enforcement of the ordinance would result in an unnecessary hardship, as the applicant would not have sufficient space for the intended carport if abided by the setback requirements.

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

The granting of these variances will observe the spirit of the ordinance, as the carport is a suitable distance from the adjacent properties and water runoff will not impose onto the adjacent property.

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

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

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

Staff observed other similarly spaced carports in the immediate area, which makes the request not out of character.

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 narrowness of the lot. The circumstances do not appear to be merely financial.

The motion was seconded by Commissioner Bragman.

Favor: Manna, Bragman, Brereton, Stevens, Ybanez, Dean, Benavides, Vasquez, Ozuna, Oroian
Opposed: Cruz

MOTION PASSES

Item #6

BOA-24-10300071: A request by BioBridge Global for a 9' variance from the minimum 10' setback to allow a sign with a 1' front setback, located at 6211 IH-10 West. Staff recommends Denial. (Council District 1) (Melanie Clark, Planner, 210-207-5550, melanie.clark@sanantonio.gov, Development Services Department)

Staff stated 8 notices were mailed to property owners, 1 returned in favor, 2 in favor outside 200', 0 returned in opposition. No registered Neighborhood Association within 200' of subject property.

Adrian Mendoza and Chris Johnson, applicant's representative, requested for a setback variance for a sign. Applicants presented item and was available for questions.

Wes Pugmen, Budget Signs, provided clarification regarding sign size and placement.

Edward Rodriguez, Sign Inspector, clarified sign measurements.

No Public Comment

A motion was made by Commissioner Ozuna. Regarding Case No. BOA-24-10300071, I move that the Board of Adjustment grant a request for a 9' variance from the minimum 10' setback to allow a sign with a 1' front setback, situated at 6211 Interstate 10 West, applicant being BioBridge Global, 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 necessary because strict enforcement of this article prohibits any reasonable opportunity to provide adequate signs on the site, considering the unique features of a site such as its dimensions, landscaping, or topography;*

The variance is necessary because strict enforcement of this article prohibits any reasonable opportunity to provide adequate signs on the site such as the curb on the expressway.

2. *After seeking one or more of the findings set forth in subparagraphs (1) and (2), the Board finds that:*

- A. Granting the variance does not provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.

The proposed sign does not appear to provide a special privilege and will not impede the vision of commuters along Interstate 10 West.

- B. Granting the variance will not have a substantially adverse impact on neighboring properties.

The proposed variance will not have a substantially adverse impact on neighboring properties it will not impede on any other signs in the area.

- C. Granting the variance will not substantially conflict with the stated purposes of this article.

A sign 1” from the front setback will not impede the vision of commuters or intrude neighboring properties along Interstate 10 West.

The motion was seconded by Commissioner Bragman.

In Favor: Ozuna, Bragman, Brereton, Stevens, Ybanez, Dean, Cruz, Manna, Benavides, Vasquez, Oroian

Opposed: None

MOTION PASSES

Item #7

BOA-24-10300072: A request by Juan Guerrero for 1) a 15’ variance from the maximum 40’ height to allow a 55’ sign height, 2) a 10 square feet variance from the maximum 240 square feet to allow a 250 square feet sign, 3) an 88’ variance from the minimum 150’ distance to allow two signs 62’

apart, located at 920 Southeast Military Drive. Staff recommends Denial. (Council District 3) (Colton Uden, Planner, 210-207-0120, Colton.Uden2@sanantonio.gov, Development Services Department)

Staff stated 13 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, No response from the Mission San Jose Neighborhood Association.

Chair Oroian, requested clarification from Sign Inspector regarding the signs and street frontage.

Edward Rodriguez, Sign Inspector, provided clarification regarding sign street frontage.

Juan Pablo, Property Owner, stated the sign was existing when he purchased the property. The Contractor with Neon Signs provided information regarding the sign utilizing the existing sign pole.

Juan Guerrero, Contractor, clarified permitting history.

No Public Comment

A motion was made by Commissioner Manna. Regarding Case No. BOA-24-10300072, I move that the Board of Adjustment grant a request for 1) a 5' variance from the maximum 40' height to allow a 45' sign height, 2) a 10 square feet variance from the maximum 240 square feet to allow a 250 square feet sign, situated at 920 Southeast Military Drive, applicant being JPG Investments LLC, 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 necessary because strict enforcement of this article prohibits any reasonable opportunity to provide adequate signs on the site, considering the unique features of a site such as its dimensions, landscaping, or topography; **or**
2. A denial of the variance would probably cause a cessation of legitimate, longstanding active commercial use of the property.

The requested variances will not cause a cessation of legitimate, longstanding active commercial use of the property as the sign was originally Nonconforming.

3. After seeking one or more of the findings set forth in subparagraphs (1) and (2), the Board finds that:

A. Granting the variance does not provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.

The proposed sign square footage and sign height does not appear to provide a special privilege as there are similarly sized signs in the immediate area.

B. Granting the variance will not have a substantially adverse impact on neighboring properties.

The proposed variance will not have an adverse impact on neighboring properties as sufficient space exists between the sign and neighboring uses.

C. Granting the variance will not substantially conflict with the stated purposes of this article.

The requested variance does not appear to substantially conflict with the stated purpose of the chapter. The variance is considering the location of the property and the arterial road.

The motion was seconded by Commissioner Ozuna.

Commissioner Ozuna moved to amend the motion to the applicant's original requested variance. Amendment was seconded by Chair Oroian.

Favor: Ozuna, Oroian, Stevens, Ybanez, Dean, Benavides, Vasquez

Opposed: Manna, Brereton, Cruz, Bragman

MOTION TO AMEND THE REQUEST TO THE ORIGINAL 15' SIGN HEIGHT VARIANCE TO ITEM #1 PASSES

Chair Oroian offered a friendly amendment to item #1 to go back to a 5' variance to the maximum 40' sign height as initially moved.

The friendly amendment was accepted by the maker, Commissioner Manna, and Commissioner Ozuna, the 2nd on the motion.

Favor: Manna, Ozuna, Brereton, Stevens, Ybanez, Dean, Cruz, Benavides, Bragman, Vasquez, Oroian

Opposed: None

MOTION PASSES

Item #8

BOA-24-10300074: A request by Alan Dsouza for 1) a 1/2-story variance from the maximum 1.5 stories to allow a 2-story structure, 2) a 20% variance to from the maximum 45% of lot area requirement to allow 65% buildable area in an "R-1", located at 238 Rounds Street. Staff recommends Denial. (Council District 5) (Melanie Clark, Planner, 210-207-5550, melanie.clark@sanantonio.gov, Development Services Department)

Staff stated 49 notices were mailed to property owners, 1 returned in favor, 0 returned in opposition, No response from the West End Hope in Action Neighborhood Association.

Alan Dsouza, Applicant, stated the variance to build a 2-story structure would allow space for his family a place to stay.

No Public Comment

A motion was made by Commissioner Bragman. Regarding Case No. BOA-24-10300074, I move that the Board of Adjustment grant a request for 1) a 1/2-story variance from the maximum 1.5 stories to allow a 2-story structure, and 2) 20% variance to from the maximum 45% of lot area requirement to allow 65% buildable area in an “R-1”, situated at 238 Rounds Street, applicant being Alan Dsouza, 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 request is not contrary to the public interest as the height will be limited to the rear of the structure and will allow the expansion of livable area of the residence vertically to avoid encroachment to neighboring properties.

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

Changes to the proposed design plans would result in an unnecessary hardship as the limited lot size restricts single-story expansion that will prevent the applicant from enhancing 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 will be observed with the variances by enhancing functionality and maximizing property use of the residence without encroachment to neighboring lots.

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

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

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

Staff finds the granting of the variances will not alter the essential character of the district in which the property is located as the proposed variances will help residential functionality within a limited lot size while maintaining a single-story appearance along the street frontage.

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 as the limited lot size is not conducive with single-story expansion of the existing structure.

The motion was seconded by Commissioner Cruz.

Favor: Bragman, Cruz, Brereton, Stevens, Ybanez, Dean, Manna, Benavides, Ozuna, Vasquez, Oroian

Opposed: None

MOTION PASSES

Item #9

BOA-24-10300077: A request by Mario Morales for a 1/2-story variance from the maximum 1.5 stories to allow a 2-story structure, located at 92 Flann Street. Staff recommends Denial. (Council District 5) (Colton Unden, Planner, 210-207-0120, Colton.Unden2@sanantonio.gov, Development Services Department)

Staff stated 32 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, Prospect Hills Neighborhood Association is in favor.

Mario Morales, applicant, stated he is requesting a variance to build a 2-story structure. The structure would provide affordable housing to the neighborhood.

Public Comment

Russell Felan, President of Prospect Hills NA – spoke in favor of the variance.

A motion was made by Commissioner Ozuna. Regarding Case No. BOA-24-10300077, I move that the Board of Adjustment grant a request for a 1/2-story variance from the maximum 1.5 stories to allow a 2-story structure, situated at 92 Flann, applicant being Mario Morales, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

Staff finds these requests are not contrary to public interest, as a two-story structure will not impose onto the interest of the single-family residential uses.

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

This would result in an unnecessary hardship as there is limited spacing on the property to abide by the requirements.

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

Staff finds the spirit of the ordinance will be observed and substantial justice will be done as allowing a half-story variance will allow for more adequate square footage for a home on the 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.*

The requested variances will not substantially injure the appropriate use of adjacent conforming properties or alter the essential character of the district.

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

Staff finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, such as the applicant not having sufficient height for the proposed use. The circumstances do not appear to be merely financial.

The motion was seconded by Commissioner Cruz

Favor: Ozuna, Cruz, Brereton, Stevens, Ybanez, Dean, Manna, Benavides, Bragman, Vasquez, Oroian

Opposed: None

MOTION PASSES

Commission went into recess at 2:57 PM and reconvened at 3:07 PM

Item #10

BOA-24-10300078: A request by Ernesto Flores Jr. for a 9'-11" variance from the minimum 10' carport setback to allow a carport with a 1" setback, located at 1702 Mountjoy Street. Staff

recommends Approval. (Council District 9) (Melanie Clark, Planner, 210-207-5550, melanie.clark@sanantonio.gov, Development Services Department)

Staff stated 14 notices were mailed to property owners, 9 returned in favor, 1 returned in opposition, no registered Neighborhood Association.

Ernesto Flores, property owner, requesting a variance to keep existing carport. The carport is needed to protect his vehicles from weather conditions.

Public Comment

Voicemails

Laura Daniels – In opposition

Mark Passan – In opposition

Preston Klemcke – In opposition

In Person

Sandra Malcolm – Spoke in opposition

A motion was made by Commissioner Bragman. Regarding Case No. BOA-24-10300078, I move that the Board of Adjustment grant a request for a 9'-11" variance from the minimum 10' carport setback to allow a carport with a 1" setback, situated at 1702 Mountjoy Street, applicant being Ernesto Flores Jr., 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 request is not contrary to the public interest as the carport will not impede on the driveway clear vision requirements.

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 reconstruct the attached carport to be 10' from the setback, which would result in an unnecessary hardship as the carport would not provide the coverage needed for vehicles.

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

The structure would be 1" from the property line, which observes the spirit of the ordinance as the carport poses no hinderance to the driveway clear vision or impedes 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.*

If granted, the attached carport 1” from the setback would 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 as the corner lot limits the location of a carport on the property.

The motion was seconded by Commissioner Manna.

Favor: Bragman, Brereton, Stevens, Ybanez, Dean, Benavides, Ozuna, Vasquez

Opposed: Cruz, Manna, Oroian

MOTION FAILS

Item #11

BOA-24-10300081: A request by Victor Flores for a variance to allow an accessory dwelling in the front yard, located at 1518 Calle Valencia. Staff recommends Denial. (Council District 5) (Colton Uden, Planner, 210-207-0120, Colton.Uden2@sanantonio.gov, Development Services Department)

Staff stated 25 notices were mailed to property owners, 0 returned in favor, 0 returned in opposition, no response from Los Jardines Neighborhood Association.

Jim Tafoya, Contractor with Brio Builders – Represented applicant regarding the request for a variance for two dwelling units.

Samantha Flores, applicant – stated the variance is needed to allow for two dwelling units on property. The accessory unit will be used by family when they come in to visit.

No Public Comment

A motion was made by Commissioner Ozuna. Regarding Case No. BOA-24-10300081, I move that the Board of Adjustment grant a request for a variance to allow an accessory dwelling in the front

yard, situated at 1518 Calle Valencia, applicant being Victor Flores, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

Staff finds this request as not contrary to public interest, as the accessory dwelling unit located in the front yard will not impose on adjacent single-family uses.

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 providing separate utilities for a secondary dwelling unit, rather than an accessory dwelling unit.

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

Staff finds the spirit of the ordinance will be observed and substantial justice will be done the property is permitted a second unit where the accessory structure is located.

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 variance will not substantially injure the appropriate use of adjacent conforming property as the accessory dwelling will decrease the permitted use on the lot.

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 limited buildable space in the rear yard.

The motion was seconded by Commissioner Manna

Favor: Ozuna, Manna, Brereton, Stevens, Ybanez, Cruz, Benavides, Bragman, Vasquez, Oroian

