

City of San Antonio



Board of Adjustment Minutes

Development and Business Services
Center
1901 South Alamo

February 4, 2019

1:00PM

1901 S. Alamo

Board of Adjustment Members

A majority of appointive Members shall constitute a quorum.

Roger F. Martinez, District 10, Chair
Alan Neff, District 2, Vice Chair
Donald Oroian, District 8, Pro-Tem

Seth Teel, District 6 | Dr. Zottarelli, District 1 | Maria Cruz, District 5 | Phillip Manna, District 7 |
George Britton, District 4 | Henry Rodriguez, Mayor | Kimberly Bragman, District 9 | Reba N.
Malone, District 3

Alternate Members

Cyra M. Trevino | Jorge Calazo | Arlene B. Fisher | Eugene A. Polendo
| Roy A. Schaufele | Vacant

1:00 P.M. - Call to Order, Board Room

- **Roll Call**
- **Present: Dr. Zottarelli, Cruz, Rogers, Malone, Polendo, Neff, Manna, Britton, Rodriguez, Fisher, Bragman, Trevino, Martinez**
- **Absent: Teel, Oroian**

- Gabriela Barba and Maria E. Murray, SeproTec translators were present.

**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*

Pledge of Allegiance

Item # 10 BOA-18-900033: A request by J Rolando Guajardo for a 145 square foot variance from the 200 square foot area limitation to allow a new multi-tenant sign to be 345 square feet, located at 2034 Austin Highway. Staff recommends Approval. (Council District 2)

Staff stated 19 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition and no registered neighborhood association.

Andrew Perez, Chief Sign Inspector, answered all questions from the Board of Adjustment.

Mark Weinstein, stated his family and business partners have owned the property for 25 years. After getting partially burned, they heavily invested in the property and are now requesting a small digital sign.

The Following Citizens appeared to speak.

Daniel Mirelles, 13019 Legend Cave, spoke in favor.

Motion

Chair Martinez asked for a motion for item #BOA-18-900033 as presented.

Motion: Mr. Oroian made a Mr. Oroian made a motion to approve the case BOA-18-900033

Regarding Appeal No BOA-18-900033, a for a 145 square foot variance from the 200 square foot area limitation to allow a new multi-tenant sign to be 345 square feet, situated at 2034 Austin Highway, applicant being J Rolando Guajardo.

I move that the Board of Adjustment grant the applicant's request for the variance to the subject property as described above, 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; and*

The applicant is replacing an existing non-conforming multi-tenant sign with a new multi-tenant sign with digital led screen at the top. The applicant states that they will also be removing the three existing poles on the property.

The proposed new multi-tenant sign with digital LED screen at the top will be replacing an existing non-conforming, multi-tenant sign. The applicant will suffer an unnecessary hardship if the variance is not approved. The property owner requires signage in order to promote the business.

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 request is not out of character with the surrounding commercial properties and the sign will not block other business within immediate vicinity.

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 many of the properties surrounding the subject property or other commercial properties have signs similar in height. Further, the applicant is removing other poles on-site.

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

The requested variance does not conflict with the stated purpose of the chapter. The requested increase of the square footage provides reasonable limits on signage to help preserve economic cornerstones. Further, the request will not create traffic hazards by confusing or distracting motorists, or by impairing the driver's ability to see pedestrians, obstacles, or other vehicles, or to read traffic signs.

Second: Ms. Cruz

In Favor: Neff, Cruz, Britton, Rodriguez, Schuaffe, Dr. Zottarelli, Malone, Bragman, Manna, Trevino, Martinez,

Opposed: None

Motion Granted

Ms. Cruz recused herself from Board of Adjustment case BOA 18-900029.

Item # 6 BOA 18-900029: A request by Gabriel Elizondo for a 1'8" variance from the 5' setback requirement to allow for a structure to be 3'4" from the side property line, located at 244 Jennings Avenue. Staff recommends Approval. (Council District 5)

Staff stated 32 notices were mailed to property owners within 200 feet, 1 returned in favor, and 1 returned in opposition and no registered neighborhood association.

Gabriel Elizondo, 244 Jennings Ave, requested the accessory structure to be built in the same footprint as the old structure, correct the flooding issue for his daughter to live.

The Following Citizens appeared to speak

Ernest Vara, 247 Cavalier, spoke in opposition
Gloria Vara, 247 Cavalier, yielded time to Ernest Vara
Alan Townsend, 143 Walton, yielded time to Ernest Vara

Motion

Chair Martinez asked for a motion for item BOA-18-900029, as presented.

Dr. Zottarelli made a motion for BOA 18-900029

Regarding BOA-18-900029, a request for a 1'8" variance from the side 5' setback requirement to allow a detached structure to be 3'4" away from the rear property line, situated at 244 Jennings Avenue, applicant being, Gabriel Elizondo.

I move that the Board of Adjustment grant the applicant's request for the variances to the subject property as described above, 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 variance is not contrary to the public interest as the structure will not create water runoff on the adjacent property and will not injure the rights of the adjacent property owners.*

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

An unnecessary hardship would result from the enforcement of the ordinance as strict enforcement would require the owner of the property to demolish and rebuild the structure in question.

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

Substantial justice will be done as the requested setbacks will still provide for a safe development pattern. The request provides fair and equal access to air and light, and provides for adequate fire separation.

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

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

- **In older neighborhoods such as this, it is common for accessory units to be located within the rear setbacks established by the current Unified Development Code. The request will not detract from the character of the district. The unit in question is in the rear yard, not affecting the public right-of-way. The structure in question does not injure the adjacent property.**

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 unique circumstance existing on the property is that the structure in question is already in place.

Motion: Dr. Zottarelli made a motion for Approval

Second: Mr. Neff

In Favor: Dr. Zottarelli, Neff, Trevino, Manna, Bragman, Malone, Britton, Rodriguez, Fisher, Schaufele, Martinez

Opposed: None

Recused: Cruz

Motion Granted

The Board recessed at 2:09pm and returned at 2:19pm. Ms. Cruz returned to the meeting.

- Item #1 (Continued from 01/14/19) BOA-18-900013: A request by Jesus Montiel for a 49.9% variance from the 50% front yard impervious cover limitation to allow 99.9% of the front yard to be covered in impervious cover, located at 3709 West Salinas Street. Staff recommends Denial. (Council District 5)

Staff stated 31 notices were mailed to property owners within 200 feet, 1 returned in favor, and 3 returned in opposition and no response from the Prospect Hill Neighborhood Association.

Jesus Montiel and Armandia Lopez, 748 S. San Dario, did not know he needed a permit and had already begun work. They are asking 70% percent cover in the front. They did not want to park in the back because it is too dangerous for the Kids to play in the front yard.

Motion

Chair Martinez asked for a motion for case BOA-18-900013, as presented.

Dr. Zottarelli made a motion for BOA 18-900013

Regarding Appeal No BOA-18-900013, a request for a 49.9% variance from the 50% front yard impervious cover limitation to allow 99.9% of the front yard to be covered in impervious cover, situated at 3709 West Salinas Street, applicant being Jesus Montiel.

I move that the Board of Adjustment grant the applicant's request for the variances to the subject property as described above, 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 impervious coverage limitation preserves storm water management by reducing runoff and increasing storm water travel times. The subject property allows the water to drain into the side open green area located within the property. The variance request would not be contrary to the public interest.

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

Literal enforcement would require the owner to remove about 49.9% of concrete in the front yard.

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 the intent of the code, rather than the strict letter of the law. The intent of the impervious coverage limitation requirements is to prevent water flooding and to preserve the character of the community.

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

The variance will not authorize the operation of a use other than those uses specifically authorized in the zoning 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 impervious coverage mitigates the amount of storm water retained on-site. Therefore, the requested variance will not injure adjacent property owners.

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 unique circumstance in this case is that the requested variance still mitigates water issues with the impervious coverage exceeding the 50% limitation.

Motion: Dr. Zottarelli made a motion to approve the case BOA-18-900013

Mr. Rodriguez made a motion to reduce up to 70% cover. Dr. Zottarelli accepted the amendment.

Second: Mr. Rodriguez.

In Favor: Rodriguez, Dr. Zottarelli, Cruz, Neff, Malone, Schaufefe, Martinez

Opposed: Trevino, Manna, Bragman, Britton

Motion Failed

Item # 2 (Continued from 01/14/19) BOA-18-900026: A request by Laurie Cassidy for a variance from the Form Based Zone District (T-4) regulations that restrict parking within the first layer to allow the property to be developed with parking spaces in the first 1/3 of the lot depth, located at 715 Camden Street. Staff recommends Approval. (Council District 1)

Staff stated 21 notices were mailed to property owners within 200 feet, 1 returned in favor, and 0 returned in opposition and no comment from the Downtown Residents Association.

Kevin Love, 22610 U.S Hwy 281, He explained the need for the variance and their hardships and need for emergency access.

The Following Citizens appeared to speak.

Patti Zaiontz, San Antonio Conservation Society, spoke in opposition.

Motion

Chair Martinez asked for a motion for the variance in case BOA-18-900026, as presented.

Motion: Dr. Zottarelli made a motion to approve the variance in case BOA-18-900026.

Regarding Appeal No BOA-18-900026, a request from the Form Based Zone (T-4) regulations that restrict parking within the first layer to allow the property to be developed with parking spaces in the first 1/3 of the lot depth, situated at 715 Camden Street, applicant being Laurie Cassidy.

I move that the Board of Adjustment grant the applicant's request for the variances to the subject property as described above, 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 proposed project is intending to redevelop an existing structure where parking is located within the first layer. The existing building has been at the same location since 1920, according to Bexar County Appraisal District, well before the Form Based Zone was adopted. If granted, this request would be in harmony with the spirit and purpose of the ordinance.

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

Literal enforcement of the ordinance would not allow the owner of the property to redevelop the building as proposed. The building would have to be demolished or moved to the front of the first layer to comply with this ordinance.

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

The intent of Form Based Zone District (T-4) regulations that restrict parking within the first layer is to create a visual character reinforcing community identity. The parking modification of the subject property will not significantly disrupt uniformity and will not injure the rights of adjacent property owners.

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

The variance will not authorize the operation of a use other than those uses specifically authorized in the in the zoning 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 redevelopment of the structure will not detract from the neighborhood as the issue is related to pre-existing building form.

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 unique circumstance in this case is the existing building has been in the same location since 1920 and moving the entire structure would be challenging.

Second: Mr. Rodriguez

In Favor: Cruz, Dr. Zottarelli, Trevino, Manna, Britton, Schaufefe, Malone, Bragman

Opposed: Rodriguez, Neff, Martinez

Motion Failed

Item # 3 BOA 19-900025 a request by Jonathan Lira-Ortega for a special exception to allow a one-operator beauty/barber shop within a home, located at 5898 Midcrown Drive. Staff recommends Approval. (Council District 2)

Staff stated 22 notices were mailed to property owners within 200 feet, 1 returned in favor, and 2 returned in opposition and no response from the East Village Neighborhood Association.

Johnathan Lira-Ortega, 5898 Midcrown Drive, stated the corner lot makes it easy for his customers to find, applicant stated he will live on the property and be by appointment only and asked for approval.

The Following Citizens appeared to speak.

Emilia Devno, 4827 Castle Rose, spoke in opposition

Jennings Y.R., 4838 Castle Rose, spoke in opposition

Motion

Chair Martinez asked for a motion for item BOA-18-900025, as presented.

Motion: Mr. Rodriguez made a motion to approve item BOA-18-900025

Regarding Appeal No BOA-18-900025, a request for a special exception to allow a one-operator beauty/barber shop within a home, situated at 5898 Midcrown Drive, applicant being Jonathan Lira-Ortega.

I move that the Board of Adjustment grant the applicant's request for the special exception to the subject property as described above, 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 spirit and purpose of the chapter, in this case, is represented by minimum requirements to ensure that the operation of a one-operator beauty/barber shop does not negatively impact the character of the community or the quality of life of neighbors. The Board noted that nothing about the home distinguishes it from others in the community. The applicant has fulfilled all requirements for a one-operator shop as established in the Unified Development Code. The Board finds that the special exception is in harmony with the spirit of the chapter.

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

The applicant is requesting that he be allowed to have beauty/barber shop within his home and this is his first request for a special exception. Approving the request for the special exception, with limited hours, will allow the applicant to serve customers in his community and therefore the public welfare will be served.

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

The requested special exception is not likely to negatively impact adjacent property owners because the home is in character with those around it. The site does not have anything visible from the street that would indicate the presence of a beauty/barber shop.

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 requested special exception is not likely to alter the essential character of the district as the property is still used, primarily, as a single-family residence. From the street, the home is not unlike other homes in the community.

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

The primary use of the dwelling remains a single-family home. The one-operator barber/beauty shop will have restricted hours, which are established by the Board of Adjustment. The applicant has met all other requirements established by the Unified Development Code.

Second: Ms. Cruz

In Favor: Neff, Dr. Zottarelli, Cruz, Rodriguez, Bragman, Malone, Trevino, Manna, Britton, Schaufele, Martinez

Opposed: None

Motion Granted

Item # 4 BOA-18-900034: A request by Tanya Scisney for a special exception to allow a one-operator beauty/barber shop within a home, located at 10303 Tippecanoe. Staff recommends Approval. (Council District 4)

Staff stated 30 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition and no response from the Heritage Neighborhood Association.

Tanya Scisney, 10303 Tippecanoe, asked for a renewal of here special exception and spoke of how working from home helps with her medical condition. Her hours of operation are Monday through Saturday from 11am-7pm.

No Citizens appeared to speak.

Motion

Chair Martinez asked for a motion for item BOA-18-900034, as presented.

Motion: Mr. Manna made a motion to approve item BOA-18-900034.

Regarding BOA-18-900034, a request for a renewal special exception to allow a one-operator beauty/barber shop within a home, situated at 10303 Tippecanoe, applicant being Tanya Scisney.

I move that the Board of Adjustment grant the applicant's request for the special exception to the subject property as described above, 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 spirit and purpose of the chapter, in this case, is represented by minimum requirements to ensure that the operation of a one-operator beauty/barber shop does not negatively impact the character of the community or the quality of life of neighbors. The Board noted that nothing about the home distinguishes it from others in the community. The applicant has fulfilled all requirements for a one-operator shop as established in the Unified Development Code. The Board finds that the special exception is in harmony with the spirit of the chapter.

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

The applicant has already constructed the beauty/barber shop within her home and this is her second request for a renewal of a special exception. Approving the request for the special exception, with limited hours, will allow the applicant to serve customers in her community and therefore the public welfare will be served.

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

The requested special exception is not likely to negatively impact adjacent property owners because the home is in character with those around it. The site does not have anything visible from the street that would indicate the presence of a beauty/barber shop. The subject property offers a driveway capable of providing any necessary parking for the proposed use.

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 requested special exception is not likely to alter the essential character of the district as the property is still used, primarily, as a single-family residence. From the street, the home is not unlike other homes in the community.

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

The primary use of the dwelling remains a single-family home. The one-operator barber/beauty shop will have restricted hours, which are established by the Board of Adjustment. The applicant has met all other requirements established by the Unified Development Code.

Second: Mr. Schauffele

In Favor: Manna, Schauffele, Neff, Dr. Zottarelli, Cruz, Rodriguez, Bragman, Malone, Trevino, Britton, Martinez

Opposed: None

Motion Granted

The Board of Adjustment recessed at 3:32pm and reconvened at 3:40pm.

Item # 5 BOA 18-900035 a request by Stewart Porter for a special exception to allow a total of 2 short term rental (Type 2) units, located at 318 Baltimore. Staff recommends Approval. (Council District 1)

Staff stated 20 notices were mailed to property owners within 200 feet, 0 returned in favor, and 2 returned in opposition and there is no response from the Denver Heights Neighborhood Association.

Stewart Porter, 11410 Helotes,

The Following Citizens appeared to speak.

Korling Duren, 322 Baltimore, spoke in favor.

Motion

Chair Martinez asked for a motion for item BOA-18-900035, as presented.

Motion: Dr. Zottarelli made a motion to approve item BOA-18-900035 as presented.

Regarding Appeal No BOA-18-900035, a request for a special exception to allow a total of 2 short term rental (Type 2) units, situated at 318 Baltimore, applicant being Stewart Porter.

I move that the Board of Adjustment grant the applicant's request for the special exception to the subject property as described above, 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 not materially endanger the public health or safety.

The Board finds that the request to operate the two short term rentals is unlikely to materially endanger the public health, safety, or welfare. The property appears to be well kept, there is ample off-street and on-street parking, and nothing about the house places it out of character with those in the immediate vicinity.

B. The special exception does not create a public nuisance.

The operation of these short term rentals is not likely to cause a public nuisance. The Board can find no record of previous Code Enforcement activities on this property.

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

The requested special exception is not likely to negatively impact adjacent property owners because the homes are in character with those around it.

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

The site offers plenty of off-street parking for guests of the short term rental and a yard for open space. Further, nothing stood out as a cause of increased flooding issues.

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

The applicant is seeking their first permit for the operation of two Type-2 short term rentals. As such, no previous permit has been revoked.

F. 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 requested special exception is not likely to alter the essential character of the district as the property is still used, primarily, as a residence. From the street, the home is not unlike other homes in the community.

Second: Ms. Cruz

In Favor: Dr. Zottarelli, Cruz, Rodriguez, Trevino, Malone, Manna, Bragman, Britton, Schaufele, Martinez

Opposed: Neff

Motion Granted

Item # 7 BOA-18-900030 a request by Michael Lockwood for a 15' variance from the 30' rear setback requirement to allow a structure to be 15' from the rear property line, located at 3415 Martin Luther King Drive. Staff recommends Approval. (Council District 2)

Staff stated 8 notices were mailed to property owners within 200 feet, 1 returned in favor, and 0 returned in opposition and no response from the Wheatley Heights Action Group.

Al Alford, 3415 Martin Luther King Drive, gave a description of his organization. He also gave the reasons for the need of the variances and how they need for more needed room and asked for the Board's approval.

No Citizens appeared to speak.

Motion

Chair Martinez asked for a motion for item BOA-18-900030, as presented.

Motion: Mr. Schaufele made a motion for approval on case BOA-18-900030.

Regarding Appeal No BOA-18-900030, a request for a 15' variance from the 30' rear setback requirement to allow a structure to be 15' away from the rear property line, situated at 3415 Martin Luther King Drive, applicant being Michael Lockwood.

I move that the Board of Adjustment grant the applicant's request for the variances to the subject property as described above, 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:

4. *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 15 foot rear setback is not contrary to public interest as they do not negatively impact any surrounding properties or the general public. The property will be meeting the bufferyard requirements and is only asking to reduce the rear setback requirement. The Board finds the request is not contrary to the public interest. The setbacks required for the "C-3" district anticipated uses for more than an organization.

5. *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 by eliminating a significant amount of developable space. Enforcing the full requirement removes developable space and the owner will probably need to reduce the parking requirements to expand the building; which may leave the development with insufficient space to develop as proposed.

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

In this case, the reduced rear setback requirement will provide more space without affecting adjacent properties.

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 requested variances will not authorize the operation of a use on the subject property other than those specifically authorized in the zoning 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.*

Although the applicant is seeking to reduce the rear setback required by the code, the provision of a landscape bufferyard will still be met by the project.

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 existing structure, if expanded to the front or side, will remove parking spaces from the site. The property has sufficient space to expand without affecting adjacent properties and warrants some relief to allow for development.

Second: Mr. Rodriguez

In Favor: Schaufele, Rodriguez, Trevino, Dr. Zottarelli, Cruz, Manna, Bragman, Malone, Britton, Neff, Martinez

Opposed: None

Motion Granted

Item # 8 BOA-18-900031 A request by Juan Gabriel Aragon for 1) a 9' variance from the 15' Type B landscape bufferyard along the east and south property lines to allow for a bufferyard to be as narrow as 6', and 2) a 14' variance from the 30' rear setback requirement to allow a structure to be 6' away from the rear property line, and 3) a 2' variance from the 10' side setback requirement to allow a structure to be 8' away from the east side property line, located at 920 Big Foot. Staff recommends Approval. (Council District 5)

Staff stated 40 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition and no Registered

Juan Gabriel Aragon, 602 Saldana, discussed his business in detail and wishes to add a waiting area for his customers. Mr. Aragon asked for the Boards approval.

The following Citizens appeared to speak.

- Robert Rivera, spoke in favor
- Roger Morin, spoke in favor
- AnnaBelle Valle, spoke in favor
- Ernest Villa Franco, spoke in favor
- Carlos Loetta, spoke in favor
- Robert Escobedo, spoke in favor
- Glen Donald Schneider, spoke in favor

Chair Martinez asked for a motion for item #3 for BOA-18-900031, as presented.

Motion

Motion: Ms. Cruz made a motion for approval for item for BOA-18-900031.

Regarding Appeal No BOA-18-900031, a request for 1) a 9' variance from the 15' Type B landscape bufferyard along the east and south property lines to allow for a bufferyard to be as narrow as 6', and 2) a 14' variance from the 30' rear setback requirement to allow a structure to be 6' away from the rear property line, and 3) a 2' variance from the 10' side setback requirement to allow a structure to be 8' away from the east side property line, situated at 920 Big Foot, applicant being Juan Gabriel Aragon.

I move that the Board of Adjustment grant the applicant's request for the variances to the subject property as described above, 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 6' bufferyard, the 8' side setback, and the '6 rear property are not contrary to public interest as they do not negatively impact any surrounding properties or the general public. The property does not currently benefit from any bufferyard from and even the reduced bufferyard proposed by the applicant will enhance the property. The Board finds the requests are not contrary to the public interest.

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

A literal enforcement of the ordinance would result in unnecessary hardship by requiring the project to be redesigned to meet the required setbacks and bufferyard requirements. Enforcing the full requirement removes developable space which may leave the development with insufficient space to operate the commercial use.

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

In this case, the reduced bufferyard and setback requirement will improve the existing property appearance and would provide separation that is currently lacking.

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 requested variances will not authorize the operation of a use on the subject property other than those specifically authorized in zoning 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.*

Although the applicant is seeking to reduce the bufferyard and setback required by the code, the provision of a landscape bufferyard will still enhance the community.

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 unique circumstance in this case is the lot size which restricts the owner's ability to develop without reducing the side setback and the bufferyard. The property is narrow and warrants some relief to allow for development.

Second: Mr. Rodriguez

In Favor: Cruz, Rodriguez, Trevino, Dr. Zottarelli, Manna, Bragman, Malone, Britton, Neff, Schaufele, Martinez

Opposed: None

Motion Granted

Mr. Rodriguez left the Meeting and was replaced by Ms. Fisher at 5:09pm

Item # 9 BOA-18-900032 a request by Jose J. Calzada for 1) an 8' variance from the 30' rear setback requirement to allow a structure to be 22' away from the rear property line, and 2) a variance request to allow for parking spaces to be located in front of the structure, located at 2927 TPC Parkway. Staff recommends Approval. (Council District 9)

Staff stated 22 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition and no registered neighborhood association.

Jose J. Calzada, 2731 Winding Way, spoke of his previous request and explained he has amended his request. He believes this is his best option and asked for approval.

No Citizens appeared to speak.

Chair Martinez asked for a motion for item #3 for BOA-18-900032, as presented.

Motion

Motion: Ms. Bragman made a motion for approval for item for BOA-18-900032.

Regarding Appeal No BOA-18-900032, a request for 1) an 8' variance from the 30' rear setback requirement to allow a structure to be 22' away from the rear property line, and 2) a variance request to allow for parking spaces to be located in front of the structure, situated at 2927 TPC Parkway, applicant being Jose J. Calzada.

I move that the Board of Adjustment grant the applicant's request for the variances to the subject property as described above, 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 owner of the property is trying to develop a large corner that has long been vacant. With the adjacent residential use, the code triggers large bufferyards, as well as setbacks. In order to make the site useable, the applicant requires some relief. The parking located in the front of the structures and the 22' rear setback is not contrary to public interest as it does not negatively impact any surrounding properties or the general public.

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

A literal enforcement would require parking spaces in the rear of the facility; a design intended for urban walkable communities, not they very suburban nature of this 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 the intent of the requirement rather than the strict letter of the law. The applicant is abandoning previous variances and will pursue structures smaller than 5,000 square feet. To make this alternative work, they need other relief.

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 requested variances will not authorize the operation of a use on the subject property other than those specifically authorized by the zoning 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 sizes of the proposed facilities are proportional with the size of the lot. The structures will not impose any immediate threat of water runoff or fire spread on adjacent properties due to 22' rear setback and adhering to bufferyard requirements.

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

The unique circumstance in this case is that the property, for which the variances are sought are due to the substantial lot size compared to the proposed building sizes. The structures will be proportional in size with the lot and a 22' rear setback reduction will not alter the nature of the site.

Second: Mr. Schauffele

In Favor: Bragman, Schauffele, Trevino, Dr. Zottarelli, Cruz, Manna, Malone, Britton, Neff, Fisher, Martinez

Opposed: None

Motion Granted

Approval of Minutes

Item # 11 Consideration and Approval on the Minutes from February 4, 2019.

Chair Martinez motioned for approval of the minutes and all the Members voted in the affirmative.

Second: Mr. Neff

In Favor: Unanimous

Opposed: None

Motion Granted

Director's Report: Staff informed the Board of upcoming work session regarding New Board Member Orientation and Short Term Rentals.

Adjournment

There being no further business, the meeting was adjourned at 5:30 p.m.

APPROVED BY: Roger F. Mahoney OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: [Signature] DATE: Feb. 20, 19
Executive Secretary