

City of San Antonio



Board of Adjustment Minutes

Development and Business Services
Center
1901 South Alamo

July 15, 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 | Vacant | Arlene B. Fisher | Eugene A. Polendo |
Vacant | Vacant

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

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

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 # 1** **(POSTPONED) BOA 19-10300076:** A request by Joseph Calderoni for a 2' variance from the 5' side setback requirement to allow a structure to be 3' from the side property line, located at 4715 Howard Street. (Council District 1) (Mercedes Rivas, Planner, (210) 207-0215, Mercedes.Rivas2@sanantonio.gov, Development Services Department)

No Action Taken

- Item # 2** **BOA-19-10300073:** A request by Jennifer Wolfe for 1) a 38.75 square foot variance from the 650 square foot area for a multi-tenant sign to be 688.75 square feet in area and 2) a 38.53 square foot variance from the 249.75 square foot area for a multi-tenant sign to be 288.28 square feet in area, located in the 11000 block of Potranco Road. Staff recommends Denial. (Council District 4) (Debora Gonzalez, Senior Planner (210) 207- 3074, debora.gonzalez@sanantonio.gov, Development Services Department)

Staff stated 24 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 the Boards questions regarding the signs in question.

Jennifer Wolfe, 1085 N. Main St. GA, asked for an increase square footage in signage to add more businesses that were incorrectly calculated on previous variance.

No Citizens appeared to speak

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.

Motion: Chair Martinez asked for a motion for item BOA-19-10300073, as presented.

Mr. Oroian made a **motion** for BOA-19-10300073 as amended.

Regarding Appeal No BOA-19-10300073, a request for 1) a 38.75 square foot variance from the 650 square foot area for a multi-tenant sign to be 688.75 square feet in area and 2) a 38.53 square foot variance from the 249.75 square foot area for a multi-tenant sign to be 288.28 square feet in area, situated at Located in the 11000 block of Potranco Road, applicant being Jennifer Wolfe.

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 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 variances are not contrary to the public interest because the proposed quantity of signage will limit sign clutter and promote neighborhood aesthetics. The applicant is seeking the multiple sign variances to increase advertising space.

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 requests are not out of character with the surrounding vacant and commercial properties and the business will have adequate visibility.

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

The proposed variances will not have an adverse impact on neighboring properties as many of the properties surrounding the subject property or other commercial properties have similar signage.

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

The requested variances do not conflict with the stated purpose of the chapter. The requested square footage provides reasonable limits on signage to help eliminate sign clutter. Further, the requests 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: Mr. Teel

Mr. Martinez made an amendment to remove section "C" of the motion.

Second: Rodriguez

In Favor: Rodriguez, Teel, Neff, Trevino, Polendo, Oroian, Fisher, Manna, Martinez

Opposed: None

Motion Granted

Motion: Chair Martinez asked for a motion for item BOA-19-10300073, **as amended**.

In Favor: Oroian, Teel, Rodriguez, Bragman, Trevino, Polendo, Fisher, Manna, Martinez

Opposed: None

Motion Granted

Item #3 **BOA-19-10300080:** A request by Jonathan McNamara for 1) a 9'11" variance from the 10' side setback requirement to allow two new structures to be 1" from the east and west property line, and 2) a 14'11" variance from the 15' Type B landscape bufferyard requirement to allow a bufferyard to be 1" along the east, south and west property lines, located at 24129 Boerne Stage Road. Staff recommends Approval. (Council District 8) (Debora Gonzalez, Senior Planner (210) 207- 3074, debora.gonzalez@sanantonio.gov, Development Services Department)

Staff stated 6 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition and no registered neighborhood association.

Jonathan McNamara, 6039 Whitney Road, applicant wishes to rezoned the property which triggered the variance process. The applicant wishes to comply with all codes and asked for their support.

The Following Citizens appeared to speak

Ashley Farrimond, Kaufman and Killen, had concerns
John Nelson, 24133 Boerne Stage Road, had concerns

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 Martinez asked for a **motion** for case BOA-19-10300080, as presented.

Motion: Mr. Oroian made a **motion** for BOA-19-10300080 for approval.

Regarding Appeal No BOA-19-10300080, a request for 1) a **5'** variance from the 10' side setback requirement to allow two new structures to be 1" from the west property line, and a **8'** variance from the **10'** Type B landscape bufferyard requirement to allow a bufferyard to be 5" along the west property lines and **2' from the east property Line**, 2) a 14'11" variance from the 15' Type B landscape bufferyard requirement to allow a bufferyard to be 1" along the east, and a **10' variance from the 15' landscape buffer to allow the bufferyard to be 5' along the** south and west property lines, situated at 24129 Boerne Stage Road, applicant being Jonathan McNamara.

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.*

A reduction in bufferyards are along the rear and side not contrary to public interest as they do not negatively impact any surrounding properties or the general public. The applicant is seeking to reconstruct the car wash into a newer facility. As the applicant is not requesting for the complete elimination of the bufferyards, since the reduction is only applying to the proposed structures, 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.*
Literal enforcement would not allow the redevelopment as proposed. Approval of the requested variances would provide a landscape plan along the subject property with trees. The side setback reductions will not harm the adjacent property owners.
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*
In this case, the proposed side setbacks and bufferyards will improve the existing property appearance and maintain the existing uses.
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 introduction of a 1" bufferyard and 5" and reduction in side setbacks would not harm the existing appearance of the existing property nor the adjacent commercial uses.
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 surrounding site currently has large mature trees and green grass areas, and accommodating the reconstruction of this site within the existing conditions will allow the business to operate respecting adjacent property owners.

Motion: Mr. Oroian made a motion to approve the case BOA-19-10300080 as amended

Second: Mr. Teel

Mr. Martinez made an **amendment** to **keep the original request** for the buffer yard reduction and **keep Mr. Oroian's structure requests.**

Second: Teel

In Favor: Teel, Bragman, Oroian, Polendo, Rodriguez, Trevino, Fisher, Manna, Martinez

Opposed: None

Motion Granted

Chair Martinez asked for a **motion** for case BOA-19-10300080 as amended.

Second: Teel

In Favor: Teel, Bragman, Oroian, Polendo, Rodriguez, Trevino, Fisher, Manna, Martinez

Opposed: None

Motion Granted

The Board of Adjustment recessed at 2:20pm and reconvened at 2:30pm

Item # 4 **BOA-19-10300081:** A request by Sabino Alarcon for a special exception to allow a 6' predominantly open fence within the front yard property line, located at 130 Rehmann Street. Staff recommends Approval. (Council District 1) (Mercedes Rivas, Planner, (210) 207-0215, Mercedes.Rivas2@sanantonio.gov, Development Services Department)

Staff stated 34 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition and no response from the Collins Gardens Neighborhood Association.

Sabino Alarcon, 130 Rehmann St, requested to keep the fence to secure his dogs since there is a school in the area for safety and security reasons.

No Citizens appeared to speak

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 Martinez asked for a **motion** for case BOA-19-10300081, as presented.

Motion: Mr. Teel made a **motion** for BOA-19-10300081 for approval.

Regarding Appeal No BOA-19-10300081, a request for a special exception to allow a 6' predominantly open fence within the front yard property line, situated at 130 Rehmann Street, applicant being Sabino Alarcon.

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 UDC states the Board of Adjustment can grant a special exception for a fence height modification up to 8'. The additional fence height is intended to provide protection and security to the applicant's property. If granted, this request would be in harmony with the spirit and purpose of the ordinance. No portions of the fences will be in violation of the Clear Vision field.

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

In this case, these criteria are represented by maximum fence heights to protect residential property owners while still promoting a sense of community. The predominately open fence was built along the front property line for more security in order to keep his 2 dogs free from harm. This is not contrary to the public interest.

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

No portion of the fence will be in violation of the Clear Vision field. No adjacent property owner, nor the traveling public, will be harmed by the proposed fence.

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 6' predominately open fence along the front property line will not significantly alter the overall appearance of the district and will be able to provide added security and protection for the property owner.

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

The purpose of the fencing standards is to protect the health, safety, and general welfare of the public. The special exception request is to allow a 6' predominantly open fence within the front yard property line in order to add security and protection for the subject property. Therefore, the requested special exception will not weaken the general purpose of the district.

Second: Rodriguez

In Favor: Teel, Rodriguez, Bragman, Oroian, Polendo, Trevino, Fisher, Manna, Martinez

Opposed: None

Motion Granted

Item # 5 **BOA-19-10300083:** A request for Brittany Mayberry for 1) a special exception to allow a privacy fence gate to be 8' tall on the front yard of the property line, and 2) a variance from the restriction of metal sheeting as a fencing material to allow for its use as fencing, located at 5919 Camino Alturas. Staff recommends Approval. (Council District 8) (Mercedes Rivas, Planner, (210) 207-0215, Mercedes.Rivas2@sanantonio.gov, Development Services Department)

Staff stated 13 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition and no response from the Dominion Homeowners Association.

Brittany Mayberry, 5919 Camino Alturas, requested a privacy fence to be 8' tall in the front and made of metal sheeting.

No Citizens appeared to speak.

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.

Motion Chair Martinez asked for a motion for item BOA 19-10300083, as presented.

Motion: Mr. Manna made a motion to approve item BOA 19-10300083

Regarding Appeal No BOA-19-10300083, a request for a variance from the restriction of metal sheeting as a fencing material to allow for its use as fencing, situated at 5919 Camino Alturas, applicant being Brittany Mayberry.

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 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 fence will be built with metal sheeting. The fence enhances aesthetics towards public view and meets the permitted fence height. If granted, this request would be 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. Allowing the applicant to construct the 8' metal fence will help create a safe and private environment while enhancing aesthetics. Therefore, the public welfare and convenience will be substantially served.*
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done. Granting the variance will not substantially injure the neighboring properties as the fence will enhance safety and privacy for the subject property and is highly unlikely to injure adjacent properties.*
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 8' metal fence contributes to the character of the community. The fence will not impose any immediate threat to adjacent properties.*
6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located. The unique circumstance in this case is that the new fence was built with a combination of fence materials not exposing the edges of the metal sheeting. It is difficult to establish how the request could harm adjacent owners or detract from the character of the community.*

Second: Mr. Oroian

In Favor: Manna, Oroian, Polendo, Teel, Trevino, Fisher, Rodriguez, Bragman, Martinez

Opposed: None

Motion Granted

- Item # 6** **BOA-19-10300071:** A request by Louisa G. Dulaney for a 3' variance from the 5' side setback to allow an attached carport to be 2' from the side property line, located at 7902 Thornhill Street. Staff recommends Approval. (Council District 10) (Debora Gonzalez, Senior Planner (210) 207- 3074, debora.gonzalez@sanantonio.gov, Development Services Department)

Staff stated 26 notices were mailed to property owners within 200 feet, 1 returned in favor, and 0 returned in opposition and no response from the Oak Park - Northwood Neighborhood Association.

James Power, 7902 Thornhill, stated the carport was needed due to the bad weather that has caused damages to other vehicles.

No Citizens appeared to speak.

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.

Motion: Chair Martinez asked for a motion for item BOA 19-10300071, as presented.

Motion: Ms. Bragman made a motion to approve item BOA 19-10300071.

Regarding Appeal No BOA-19-10300071, a request for a 3' variance from the 5' side setback to allow an attached carport to be 2' from the side property line, situated at 7902 Thornhill Street, applicant being Louisa G. Dulaney.

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. The attached carport will only be encroaching in a portion of the side setback and will not be visible from the street. The attached carport would provide adequate room for maintenance and would provide separation for fire spread and rainwater runoff. The Board finds that the carport, as proposed, is not contrary to the public interest.

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

Literal enforcement of the ordinance would require that the applicant find an alternative design to that portion of the carport that infringes into the side setback which would result in unnecessary financial hardship.

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

The spirit of the ordinance is the intent of the code, rather than the strict letter of the law. The new carport is not overwhelming in size and will meet all other setback requirements.

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.*

The requested variance 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.*

The request will not injure the rights of neighboring properties as the reduction does not detract from the character of the neighborhood.

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

The unique circumstance existing on the property is the odd shape lot in a cul-de-sac street only encroaching in a portion of the side setback.

Second: Ms. Trevino

In Favor: Bragman, Trevino, Teel, Polendo, Fisher, Manna, Rodriguez, Oroian, Martinez

Opposed: None

Motion Granted

Mr. Oroian made a motion to reconsider Item #5 case BOA-19-10300083.

Second: Manna

A voice vote was taken and passed unanimously.

Item # 5 **BOA-19-10300083:** A request for Brittany Mayberry for 1) a special exception to allow a privacy fence gate to be 8' tall on the front yard of the property line, and 2) a variance from the restriction of metal sheeting as a fencing material to allow for its use as fencing, located at 5919 Camino Alturas. Staff recommends Approval. (Council District 8) (Mercedes Rivas, Planner, (210) 207-0215, Mercedes.Rivas2@sanantonio.gov, Development Services Department)

Staff stated 13 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition and no response from the Dominion Homeowners Association.

Brittany Mayberry, 5919 Camino Alturas, requested a privacy fence to be 8' tall in the front and made of metal sheeting.

No Citizens appeared to speak.

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.

Motion: Chair Martinez asked for a motion for item BOA 19-10300083, as presented.

Motion: Mr. Manna made a motion to approve item BOA 19-10300083.

Regarding Appeal No BOA-19-10300083, a request for a special exception to allow a privacy fence gate to be 8' tall on the front yard of the property line, situated at 5919 Camino Alturas, applicant being Brittany Mayberry.

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 UDC states the Board of Adjustment can grant a special exception for a fence height modification up to 8'. The additional fence height is intended to provide a more secure and private front yard for the resident. If granted, this request would be in harmony with the spirit and purpose of the ordinance.

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

In this case, these criteria are represented by maximum fence heights to protect residential property owners while still promoting a sense of community. The fence height will be built along a portion of the front property line to provide a more secure and private front yard for the resident. This is not contrary to the public interest.

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

No adjacent property owner, nor the traveling public, will be harmed by the proposed fence.

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 8' fence along a portion of the front property line would not significantly alter the overall appearance of the district and would provide added security and protection for the property owner.

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

The purpose of the fencing standards is to protect the health, safety, and general welfare of the public. The special exception request is to allow an 8' fence along a portion of the front property line in order to provide a more secure and private front yard for the resident. Therefore, the requested special exception will not weaken the general purpose of the district.

Second: Mr. Oroian

In Favor: Manna, Oroian, Polendo, Teel, Trevino, Fisher, Rodriguez, Bragman, Martinez

Opposed: None

Motion Granted

Item # 7 **BOA-19-10300072:** A request by Maria C. Puente for an 8' variance from the 10' front setback requirement to allow for a detached carport to be 2' from the front property line, located at 350 East Rampart. Staff recommends Approval. (Council District 1) (Debora Gonzalez, Senior Planner (210) 207- 3074, debora.gonzalez@sanantonio.gov, Development Services Department)

Staff stated 30 notices were mailed to property owners within 200 feet, 2 returned in favor, and 2 returned in opposition and no comment from the Shearer Hills Ridgeview Neighborhood Association.

Maria C. Puente, 350 East Rampart, Gave an extensive, detailed presentation as to why she needs the carport and also gave examples of other carports in the area.

No Citizens appeared to speak.

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.

Motion: Chair Martinez asked for a motion for item BOA-19-10300072, as presented.

Motion: Ms. Trevino made a motion to approve item BOA-19-10300072

Regarding Appeal No BOA-19-10300072, a request for an 8' variance from the 10' front setback requirement to allow for a detached carport to be 2' from the front property line, situated at 350 East Rampart, applicant being Maria C. Puente.

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 variance is not contrary to the public interest as the structure will provide room for maintenance, 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.*

Literal enforcement of the ordinance would result in an unnecessary hardship as the home was built with no garage and there is not adequate coverage for vehicles on the property.

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 setback will still provide for a safe development pattern. The request provides fair and equal access to air and light, and provide for adequate fire separation.

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.*

The requested variance 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.*

If the requested variance is approved, the carport will not have a negative impact on the neighboring properties as it does not interfere with Clear Vision from the neighboring driveway and there are multiple carports that are similar.

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 home was built with no garage and there is not adequate coverage for vehicles on the property.

Second: Mr. Rodriguez

In Favor: Trevino, Rodriguez, Manna, Polendo, Fisher, Teel, Oroian, Bragman, Martinez

Opposed: None

Motion Granted

Item # 8 **BOA 19-10300079:** A request by Melinda DeLaFuentes for a 4'11" variance from the 5' side setback requirement to allow a carport to be 1" away from the side property line, located at 7122 Woodgate Drive. Staff recommends Denial with an Alternate Recommendation. (Council District 6) (Mercedes Rivas, Planner, (210) 207-0215, Mercedes.Rivas2@sanantonio.gov, Development Services Department)

Staff stated the applicant has requested a continuance until August 5, 2019 Board of Adjustment Meeting.

Motion: Chair Martinez asked for a motion for item for BOA 19-10300079, as presented.

Motion: Mr. Teel made a motion to continue item BOA 19-10300079 until August 5, 2019

Second: Oroian

In Favor: Teel, Oroian, Manna, Trevino, Polendo, Fisher, Bragman, Rodriguez, Martinez

Opposed: None

Motion Granted

Item # 9 **BOA 19-10300082:** A request by Yadira Martinez for a 4'11" variance from the 5' side setback requirement to allow for an existing attached carport to be 1" away from the side property line. Staff recommends Denial with an Alternate Recommendation. (Council District 6) (Mercedes Rivas, Planner, (210) 207-0215, Mercedes.Rivas2@sanantonio.gov, Development Services Department)

Staff stated 25 notices were mailed to property owners within 200 feet, 0 returned in favor, and 2 returned in opposition and no response from the Westside Neighborhood Association.

Yadira Martinez, 6622 Winkle Court, requested Interpreter services (Nancy Frias), stated the fence is necessary for protection for her vehicles. She also stated the water runs onto her property. The fence is a foot into her property.

No Citizens appeared to speak.

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.

Motion: Chair Martinez asked for a motion for item for BOA 19-10300082, as presented.

Motion: Mr. Oroian made a motion for approval for item for BOA 19-10300082

Regarding Appeal No BOA-19-10300082, a request for a 4'11" variance from the 5' side setback requirement to allow for an existing attached carport to be 1" from the side property line, situated at 6626 Winkle Court, applicant being Yadira Martinez.

I move that the Board of Adjustment grant a request for a **3' variance from the 5' from the side set allowing the it to be 2' from the side 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 2" setback from the side property line adequately addresses fire separation needs and provides adequate space to maintain the structure without trespass.

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

The 2" setback from the side property lines would limit potential hardships on adjoining property owners.

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

The 2" setback from the side property line would provide fair and equal access to air and light, while providing for adequate fire separation and storm water controls.

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.*

The variance will not authorize the operation of a use other than those uses 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 2" setback from the side property line would alleviate concerns of injuring the appropriate use of adjacent conforming properties.

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

The Board supports the attached carport placement with a 2" reduced setback from the side property line would alleviate concerns of storm water runoff, fire spread, and maintenance of the structure.

Motion: Mr. Oroian made a motion to approve item BOA-19-10300082

Second: Mr. Manna

In Favor: Oroian, Manna, Polendo, Trevino, Fisher, Bragman, Rodriguez, Teel, Martinez

Opposed: None

Motion Granted

Item # 10 **BOA-19-10300075:** A request by Diego Mancilla for 3' variance from the 5' side setback requirement to allow a home to be 2' from the side property line, located at 167 Tesla Drive. Staff recommends Approval. (Council District 5) (Debora Gonzalez, Senior Planner (210) 207- 3074, debora.gonzalez@sanantonio.gov, Development Services Department)

Staff stated 24 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition and the Memorial Heights Neighborhood Association is in support.

Diego Mancillas, 167 Tesla Drive, requested interpreter services (Nancy Frias) spoke of the many times his house has shifted since he purchased the home. He wishes to stop the shifting and add on to the home to make more room for his family.

No Citizens appeared to speak.

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.

Motion: Chair Martinez asked for a motion for item BOA 19-10300075, as presented.

Motion: Mr. Teel made a motion to approve item BOA 19-10300075

Regarding Appeal No BOA-19-10300075, a request for 3' variance from the 5' side setback requirement to allow a home to be 2' from the side property line, situated at 167 Tesla Drive, applicant being Diego Mancilla.

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:

2. *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 addition will be in harmony with the neighboring properties. The Board finds that the request is not contrary to the public interest.

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

The special condition in this case is that the current home encroaches 2' into the side setback and the applicant is struggling to complete an addition that meets the required setback to take care of his family. Staff finds that a literal enforcement of the ordinance would result in unnecessary hardship.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*
The spirit of the ordinance is the intent of the requirements rather than the strict letter of the law. The intent of the setback is to provide sufficient separation between incompatible uses. Since the lot is 9,520 square feet and the applicant will meet all other requirements, the Board finds that the spirit of the ordinance will be observed.
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.*
The requested variance 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.*
This variance would not substantially injure or alter the use or character of adjacent conforming property or character of the district. The requested variance is not visible from the public right of way due to the encroachment being on the rear corner.
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 circumstances existing on the property are neither due to the general conditions of the district, nor due to the owner, and is not financial in nature. The plight of the owner originates from the existing structure encroaching 2' into the side setback.

Second: Rodriguez

In Favor: Teel, Rodriguez, Polendo, Trevino, Fisher, Manna, Oroian, Bragman, Martinez

Opposed: None

Motion Granted

Approval of Minutes

Item # 11 Consideration and Approval on the Minutes from July 15 2019.

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

In Favor: Unanimous

Opposed: None

Motion Granted

Director's Report: None

Adjournment

There being no further business, the meeting was adjourned at 4:08 p.m.

APPROVED BY: Rosa F. Martinez OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: [Signature] DATE: Aug 7, 19
Executive Secretary