

City of San Antonio



Draft

Board of Adjustment Minutes

Development and Business Services

Center

1901 South Alamo

December 21, 2020

1:00PM

Videoconference

Board of Adjustment Members

A majority of appointive Members shall constitute a quorum.

Roger F. Martinez, District 10, Chair
Donald Oroian, District 8, Vice Chair
Andrew Ozuna, Mayor, Pro-Tem

Anisa Schell, District 1 | Seymour Battle III, District 2
Abel Menchaca, District 3 | George Britton, District 4 |
Maria Cruz, District 5 | Seth Teel, District 6
Phillip Manna, District 7 | Kimberly Bragman, District 9

Alternate Members

Cyra M. Trevino | Anne Englert | Arlene B. Fisher | Vacant
Vacant | Kevin W. Love | Jonathan Delmer

1:04 P.M. - Call to Order

- **Roll Call**
- **Present:** Schell, Menchaca, Delmer, Trevino, Teel, Manna, Bragman, Fisher, Oroian, Martinez
- **Absent:** Britton, Battle, Ozuna

2 Translators from SeproTec were present to assist with translating.

**THE FOLLOWING ITEMS MAY BE CONSIDERED AT ANY TIME DURING THE
REGULAR BOARD OF ADJUSTMENT MEETING:**

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

Item #1 **(POSTPONED) BOA-20-10300115:** A request by Ryan Casanova for 1) a 4' 10" variance from the minimum 5' side setback to allow a carport to be 2" away from the side property line, 2) a variance to allow plastic as a fencing material, and 3) a special exception to allow a portion of the side yard fence to be 8' tall and zoning variances from the Beacon Hill Neighborhood Conservation District (NCD-5) carport design regulations (a) is recessed a minimum of 5' behind the principal structure front facade, (b) vertical support or structural elements shall match the exterior materials of the principal structure in design, scale, proportion, placement, and profile, and (c) has a roof that meets the principal structure below the principal structure's eaves, located at 1127 West Rosewood Avenue. (Council District 1) (Kayla Leal, Senior Planner (210) 207-0197, kayla.leal@sanantonio.gov, Development Services Department)

Item # 2 **BOA-20-10300118:** A request by Vaquero Ventures for a 10' variance from the 15' Type C bufferyard to allow the east bufferyard to be 5' in width, located at 8342 and 8338 Broadway Street. Staff recommends Approval. (City Council District 10) (Azadeh Sagheb, Planner (210) 207-5407, Azadeh.Sagheb@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. The Oak Park-Northwood Neighborhood Association is neither in favor, nor opposition.

James Pool with Vaquero Ventures, 8342 & 8338 Broadway St – Requesting bufferyard variance due to lot size.

Submitted Public Comment

Teena Larson, Oak Park NA – In favor

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

Chair Martinez asked for a motion for item BOA-20-10300118, as presented

Ms. Bragman made a **motion** for BOA-20-10300118 for approval

“Regarding Case No. BOA-20-10300118, I move that the Board of Adjustment grant a request for a 10' variance from the 15' Type C bufferyard to allow the east bufferyard to be 5' wide, situated at 8342 and 8337 Broadway Street, applicant being Vaquero Ventures, 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 reduction of the eastern bufferyard is not contrary to public interest as it does not negatively impact any surrounding properties or the general public. As of now, the property has no bufferyards established, so any new redevelopment will be beneficial and a net improvement to the surrounding district.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
Literal enforcement would not allow the redevelopment of the property as proposed due to parking standards, fuel bay, and drive approaches on both Greenbriar and Broadway along with establishing new bufferyards as required.
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*
In this case, the proposed bufferyard will adhere to the spirit of the ordinance and substantial justice will be done by implementing the requested bufferyards where none exists currently in order to redevelop the 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.*
The variance will not authorize the operation of a use other than those uses specifically authorized by the district.
5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*
The introduction of the requested bufferyards would only enhance the overall appearance of the property, streetscape, and district.
6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.*
The plight of the owner for which the variance is sought is due to the parking standards and establishment of bufferyards where none exist currently while meeting parking and setback requirements as required.”

Second: Mr. Oroian

In Favor: Bragman, Oroian, Schell, Menchaca, Teel, Manna, Trevino, Delmer, Fisher, Martinez

Opposed: None

Motion Granted

Item #3

BOA-20-10300119: A request by Patrick Williams Christensen for a zoning variance from the South Presa and South St. Mary's Neighborhood Conservation District design regulations to allow 1) a new residential development to be three stories and 38' in height, and 2) attached rear facing garages to be constructed, located at 1508 South St. Mary's Street, 120 Playmoor Street, and 1423 South Presa Street. Staff recommends Denial with an Alternate Recommendation. (City Council District 1) (Azadeh Sagheb, Planner (210) 207-5407, Azadeh.Sagheb@sanantonio.gov, Development Services Department)

Staff stated 37 notices were mailed to property owners within 200 feet, 1 returned in favor, and 0 returned in opposition. No response from property owners within 200' of King William Association. The Conservation Society of San Antonio is in opposition. The Lavaca Neighborhood Association is in favor.

Patrick Christensen, 1508 South St. Mary's St. 120 Playmoor St., 1423 South Presa St. – Requesting variance to allow for a multifamily residential development to be three stories with rear facing garages.

Submitted Public Comments

Cherise Rohr-Allegrini, President of Lavaca NA, PO Box 831274 – In favor

Devi Norton & Wesley A. Oliver, 1429 S. Presa – In favor

Patti Zaiontz, President, The Conservation Society of SA, 107 King William St. – In opposition

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 item BOA-20-10300119, consideration for Lots 1, 26, and 27 to be reviewed at March 15, 2021 Board of Adjustment meeting.

Mr. Manna made a **motion** for BOA-20-10300119 for approval of continuance until March 15, 2021.

Second: Mr. Oroian

In Favor: Schell, Menchaca, Delmer, Trevino, Teel, Manna, Bragman, Fisher, Oroian, Martinez

Opposed: None

Motion for continuance granted

Chair Martinez asked for a motion for item BOA-20-10300119 as presented

Mr. Oroian made a **motion** for BOA-220-10300119 for approval

“Regarding Case No. BOA-20-10300119, I move that the Board of Adjustment grant a request for zoning variances from the South Presa and South St. Mary's Neighborhood Conservation District design regulations to allow 1) a new residential development to be three stories and 38' in height, and 2) attached rear facing garages to be constructed, situated at 1508 South St. Mary's Street, 120 Playmoor Street, and 1423 South Presa Street, applicant being Patrick Williams Christensen, 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 variances for the building height and attached garage are not contrary to public interest as it does not negatively impact any surrounding properties or the general public. The proposed development will improve the exterior beautification of surrounding area.

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 hardship to accommodate the suitable density for this lot. The approved site plan with the rezoning showed the proposed height and went through a public process.*
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done. The spirit of the Neighborhood Conservation District design standards is to encourage developments that preserves the character and culture of the Lavaca community. The proposed development would comprise the entire blockface between two major corridors. Therefore, the spirit of the ordinance will be observed, and substantial justice will be done.*
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 variances will not permit a use not authorized within the district it is located in.

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 pose a risk of substantially injuring the use of adjacent properties which include the Brackenridge High School campus, several commercial and residential uses along the rear side of the subject 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 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 NCD-1 design guidelines of a maximum building height, and the type of permitted garage limit the development as it was intended.”*

Second: Fisher

In Favor: Oroian, Fisher, Schell, Menchaca, Delmer, Trevino, Teel, Manna, Bragman, Martinez

Motion Granted

Item #4

BOA-20-10300107: A request by Juan Garcia for a 9’ 4” variance to the minimum front setback distance of 10’, to allow a structure to be 8” from the front property line, located at 6226 Welles Creek Drive. Staff recommends Approval. (Joyce Palmer, Planner, 210-207-0315, Joyce.Palmer@sanantonio.gov, Development Services Department)

Staff stated 28 notices were mailed to property owners within 200 feet, 2 returned in favor, and 2 returned in opposition. No response from Alamo farmsteads Babcock Road Neighborhood Association.

Juan Garcia, 6226 Welles Creek Drive – Request for variance to continue building carport. Carport is needed for protection of vehicles.

Submitted Public Comment

Chris & Marlena Pomelow, 6230 Welles Creek Drive – In opposition

Shelley Guajardo, 6315 Welles Brook Drive – In opposition

Katherine Heiner, 8802 Welles Creek Circle – In favor

Rachel Chapmin, 6219 Welles Creek Drive – In favor

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

Motion: Chair Martinez asked for a motion for item BOA-20-10300107 as presented

Mr. Manna made a **motion** for BOA-20-10300107 for approval.

“Regarding Case No. BOA-20-10300107, I move that the Board of Adjustment grant a request for a 9’ 2” variance to the minimum front building setback of 10’ to allow a structure to be **5”** away from the front property line, situated at 6226 Welles Creek Drive, applicant being Juan Garcia, 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 applicant is proposing to complete construction of an attached carport, and there is still 5” of space between it and the front property line.

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

Staff finds that any special conditions that, if enforced, would result in an unnecessary hardship. With the limited amount of space in the front of the property, moving the structure farther away from the property line will result in less space provided for the carport and the property owner’s vehicles.

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

The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. The intent of the accessory structure setbacks is to provide spacing between neighboring structures. The applicant will still maintain some space between the carport and the front property line, and the side setback requirements are met.

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.*

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 request to reduce the front setback does not pose a risk of substantially injuring the use of 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.*

Staff finds that the location of the attached accessory structure shall warrant the granting of this request. The applicant was informed of the limitations incurred by the ordinance and submitted the request for a variance.”

Second: Mr. Oroian

In Favor: Manna, Oroian, Delmer, Trevino, Teel, Bragman, Fisher, Martinez

Opposed: Schell, Menchaca

Motion Fails

Item #5

BOA-20-10300116: A request by Jennifer Pfang for 1) a 5’ variance to the minimum 10’ front and rear setback to allow a structure to be 5’ away from the front and rear setback lines and 2) a 2’ variance to the minimum 5’ side setback requirements to allow a structure to be 3’ away from the side property lines, located at 54 Kansas Street. Staff recommends Approval. (Council District 2) (Kayla Leal, Senior Planner (210) 207-0197, kayla.leal@sanantonio.gov, Development Services Department)

Staff stated 20 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition. No response from Alamodome Gardens Neighborhood Association.

Jennifer Pfang, 54 Kansas Street – Requesting setback variances to allow space to build a home. The unusual shape of the lot makes it difficult for building.

No Submitted Public comment

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

Motion: Chair Martinez asked for a motion for item BOA-20-10300116 as presented

Mr. Teel made a **motion** for BOA-20-10300116 for approval.

“Regarding Case No. BOA-20-10300116, I move that the Board of Adjustment grant a request for 1) a 5’ variance to the minimum 10’ front and rear setback to allow a structure to be 5’ away from the front and rear setback lines and 2) a 2’ variance to the minimum 5’ side setback requirements to allow a structure to be 3’ away from the side property lines, situated at 54 Kansas Street, applicant being Jennifer Pfang, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

1. *The variance is not contrary to the public interest.*
The public interest is defined as the general health, safety, and welfare of the public. The variance requested for the front, rear, and side setbacks. The variances requested are due to the unique shape of the lot and are not contrary to the public interest.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
The Board finds that any special conditions that, if enforced, would result in an unnecessary hardship. The lot is currently vacant and has a shallow depth, which would result in a smaller footprint of the proposed single-family dwelling.
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*
The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. The intent of the side setback is to provide spacing between neighboring structures. The applicant will still maintain space between structures with the variances.
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 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 Board finds the request to reduce the setbacks does not pose a risk of substantially injuring the use of adjacent properties and does not seem likely to alter the essential character of the district.
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.”

Second: Ms. Bragman

In Favor: Teel, Bragman, Schell, Menchaca, Delmer, Trevino, Manna, Fisher, Oroian, Martinez

Opposed: None

Motion Granted

Chair Martinez called for the Board of Adjustment to take a recess at 2:44 p.m. The Board of Adjustment returned at 2:52 p.m.

Item #6 **BOA-20-10300129:** A request by Emilie Weissler for a 1'8" variance from the 20' minimum rear setback to allow the building to be 18'4" away from the rear property line, located at 119 Northridge Drive. Staff recommends Approval. (City Council District 10) (Azadeh Sagheb, Planner (210) 207-5407, Azadeh.Sagheb@sanantonio.gov, Development Services Department)

Staff stated 23 notices were mailed to property owners within 200 feet, 3 returned in favor, and 0 returned in opposition. The Oak Park-Northwood Neighborhood Association is in favor.

Emilie Weissler, 119 Northridge Drive – Requesting rear setback variance to allow homeowner's structure to be 18'4" from the rear of the property line.

Submitted Public comment

Patty Wallis, Vice President, Oak Park-Northwood NA – in favor

Jacob Shalley, 118 Northridge Dr – In favor

Robert Kozel, 115 Northridge - In favor

Marie Linda-Bell, 123 Northridge - In favor

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

Motion: Chair Martinez asked for a motion for item BOA-20-10300129, as presented

Ms. Fisher made a **motion** for BOA-20-10300129 for approval.

“Regarding Case No. BOA-20-10300129, I move that the Board of Adjustment grant a request for 1'8" variance from the 20' minimum rear setback to allow the building to be 18'4" away from the rear property line, situated at 119 Northridge Drive, applicant being Emilie Weissler, 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 as requested is strictly limited to the subject property and bears no influence, hindrance, or effect on the general well-being of the surrounding community. Additionally, the variance will not cause any disruption to the privacy or enjoyment of the neighboring residential lots as a majority of homes within this subdivision sit equal distance or closer to the setback, which has no impact on the most immediate neighboring properties. Therefore, granting the variance would not be contrary to the public interest nor egregiously impact the community.

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

The requested variance is not contrary to the public interest and does not negatively impact any of the surrounding residents or uses. A literal enforcement of the 20' rear setback requirement triggers undue hardship on the Property Owner as they would have to demolish part of the home that has been already constructed.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done. The requested variance does not ignore the spirit of the ordinance, or the characteristics of the Northridge Park community. Granting of this variance does not negatively impact the aesthetic value of 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.*
The requested variances will not permit a use not authorized within the district it is located in.
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 variance to reduce the rear setback would not substantially injure or alter the use or character of adjacent conforming property or character of the district. The variance would not place the structure out of character within 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 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 property owner is due to the unique and extenuating character of the subject property's physical attributes in relation to every other home within the community."

Second: Mr. Oroian

In Favor: Fisher, Oroian, Schell, Menchaca, Delmer, Trevino, Teel, Manna, Bragman, Martinez

Opposed: None

Motion Granted

Item #7 Consideration and approval of the December 7, 2020 Board of Adjustment Minutes.

Motion: Chair Martinez asked for a motion for approval of the December 7, 2020 minutes as presented.

Mr. Teel had a correction to item #5 on December 7th minutes. Minutes will be reviewed to confirm Mr. Teel made the motion for item #5.

Mr. Oroian made a **motion** for approval of December 21, 2020 minutes with corrections as needed.

Second: Ms. Schell

In Favor: Oroian, Schell, Menchaca, Delmer, Trevino, Teel, Manna, Bragman, Fisher, Martinez

Opposed: None

Minutes Approved

Adjournment

There being no further business, the meeting was adjourned at 3:22 p.m.

DRAFT

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary

DRAFT