



Draft

Board of Adjustment Minutes

Development and Business Services
Center
1901 South Alamo

April 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 | 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, Rodriguez, Britton, Neff, Manna, Fisher, Cruz, Oroian, Trevino, Bragman, Martinez**
- **Absent: Malone, Teel**

-Nancy 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- Item # 1** **(WITHDRAWN) BOA-19-10300018** A request by Evita Morin for a 45' variance increase from the maximum 35' front setback requirement to allow a new building to be 80' away from the front property line, located at 2803 Mossrock. (Council District 1) (Debora Gonzalez, Senior Planner (210) 207-3074, debora.gonzalez@sanantonio.gov, Development Services Department)

Item was withdrawn from consideration prior to the Hearing.

- Item # 2** **(WITHDRAWN) BOA-18-900035** A request by Sarah Belyea for a special exception to allow an 8' fence along the west side property line, located at 7025 Oak Drive. (Council District 8) (Mercedes Rivas, Planner, (210) 207-0215, Mercedes.Rivas2@sanantonio.gov, Development Services Department)

Item was withdrawn from consideration prior to the Hearing.

- Item #3** **BOA-19-10300031** - A request by RPAI San Antonio Huebner Oaks L.P. for a 64 square footage variance from the maximum 500 square footage to allow for a multi-tenant sign to be 564 square feet, located at 11745 I-10 West. Staff recommends Approval. (Council District 8) (Debora Gonzalez, Senior Planner (210) 207- 3074, debora.gonzalez@sanantonio.gov, Development Services Department)

Staff stated 7 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 sign.

J.D. Keller and Randy Barber, 1234 San Francisco Street, stated the addition is necessary to keep business up and advertise more. The Applicant ask for the Boards approval.

No Citizens appeared to speak

Motion: Chair Martinez asked for a **motion** for case **BOA-19-10300031**, as presented.

Motion: Mr. Oroian made a **motion** for case # **BOA-19-10300031** for approval.

Regarding Appeal No BOA-19-10300031, a request for a 64 square footage variance from the maximum 500 square footage to allow for a multi-tenant sign to be 564 square feet, situated at 11745 I-10 West, applicant being RPAI San Antonio Huebner Oaks L.P.

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. *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 proposed multi-tenant sign will be increasing 64 square feet. The applicant intends to add the electronic message board at the very top of the existing sign not increasing the existing height which is needed to offer signage for the tenants in the shopping center.

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 any existing business, similar height signs within the area all near Interstate 10.

- 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 surrounding properties have similar signage. Further, the applicant is seeking only an additional 64 square feet.

- 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 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.

Motion: Mr. Oroian made a motion to approve the case **BOA-19-10300031**

Second: Dr. Zottarelli

In Favor: Oroian, Dr. Zottarelli, Manna, Rodriguez, Neff, Cruz, Trevino, Britton, Bragman, Fisher, Martinez

Opposed: None

Motion Granted

- Item # 4** **BOA-19-10300040** - A request by Apex Sign Group for a 9'11" variance request from the 10' front setback requirement to allow a new multi-tenant sign to be 1" from the front property line, located at 3500 Orkney. Staff recommends Approval. (Council District 8) (Debora Gonzalez, Senior Planner (210) 207- 3074, debora.gonzalez@sanantonio.gov, Development Services Department)

Staff stated 84 notices were mailed to property owners within 200 feet, 1 returned in favor, and 0 returned in opposition and no response from the Highland Forest Neighborhood Association.

Andrew Perez, Chief Sign Inspector, answered Mr. Oroian's questions

Brad Burkett, 3500 Orkney, gave a presentation regarding the property and addressed all of Mr. Oroian's questions. Mr. Burkett stated this was the only location that would work for the project and will not block the line of sight and will be on their property.

No Citizens appeared to speak

Motion: Chair Martinez asked for a **motion** for case **BOA-19-10300040**, as presented.

Motion: Mr. Oroian made a **motion** for case # **BOA-19-10300040** for approval.

Regarding Appeal No BOA-19-10300040, a request for a 9'11" variance request from the 10' front setback requirement to allow a new multi-tenant sign to be 1" from the front property line, located at 3500 Orkney, applicant being Apex Sign Group.

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*

Currently, the property has no signage and due to the long narrow lot shape this is their best location not affecting adjacent property owners. The requested sign is necessary for the promotion of businesses on site.

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.*

Businesses along major arterials around the city are afforded reasonable signage opportunities. Staff finds that the applicant's request does not grant a privilege not enjoyed by other similarly situated businesses.

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

It is unlikely that adjacent properties will be negatively affected by the requested variance. The sign will not interfere with clear vision, nor does the proposed sign package detract from the community.

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

The legislative purposes of the adopted sign regulations are to provide minimum standards to protect the general public by regulating the design, construction, location, use and maintenance of outdoor advertising signs. They are also created to ensure that businesses have the ability to reasonably market their business to the public. The proposed multi-tenant sign setback is not significantly larger than similarly situated businesses.

Motion: Mr. Oroian made a motion to approve the case **BOA-19-10300040**

Second: Rodriguez

In Favor: Oroian, Rodriguez, Dr. Zottarelli, Manna, Neff, Cruz, Trevino, Britton, Bragman, Fisher, Martinez

Opposed: None

Motion Granted

Item # 5 **BOA-19-10300036** A request by Daryl Wayne Shelton for 1) a 10' variance from the 15' Type B landscape bufferyard requirement to allow a bufferyard to be as narrow as 5' along the rear property line, 2) a 25' variance from the 30' rear setback requirement to allow two detached structures to be as close as 5' from the rear property line, and 3) a 6' variance from the 10' side setback requirement to allow a detached structure to be 4' from the side property line, located at 258 Ardmore Street. Staff recommends Approval. (Council District 6) (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 Community Workers Council and Los Jardines Neighborhood Associations.

Daryl W. Shelton, 258 Ardmore St, stated he was cited by code and did not know he needed a permit and ceased construction, later applied for the variances.

No Citizens appeared to speak

Motion: Chair Martinez asked for a **motion** for item **BOA-19-10300036**

Motion: Mr. Neff made a motion for case # **BOA-19-10300036** for approval.

Regarding Appeal No BOA-19-10300036, a request for 1) a 10' variance from the 15' Type B landscape bufferyard requirement to allow a bufferyard to be as narrow as 5' along the rear property line, 2) a 25' variance from the 30' rear setback requirement to allow two detached structures to be as close as 5' from the rear property line, and 3) a 6' variance from the 10' side setback requirement to allow a detached structure to be 4' from the side property line, situated at 258 Ardmore Street, applicant being Daryl Wayne Shelton.

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 5' bufferyard is not contrary to public interest as it does 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. Staff finds the request is 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 bufferyard requirements. Enforcing the full requirement removes developable space which may leave the development with insufficient space to operate the parking lot.

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 is adjacent to a high traffic frontage road.

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.*

Although the applicant is seeking to reduce bufferyard required by the code, the provision of landscape bufferyard will still enhance the community and the proposed 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 unique circumstance in this case is the lot is a triangular shape compounded by right-of-way takings over the years to widen these streets. The property is narrow and warrants some relief to allow for development.

Motion: Mr. Neff made a motion for case # **BOA-19-10300036** for approval.

Second: Rodriguez

In Favor: Neff, Rodriguez, Oroian, Manna, Dr. Zottarelli, Fisher, Britton, Cruz, Bragman, Trevino, Martinez

Opposed: None

Motion Granted

Mr. Oroian recused himself from case BOA 19-10300026 at 2:05pm

Item # 6 (Continued from 04/01/19) **BOA-19-10300026** A request by Aero Cosmetics for a variance from the restriction of corrugated metal as a fencing material to allow for its use as fencing, located at 12122 Colwick Drive. Staff recommends Approval. (Council District 9) (Debora Gonzalez, Senior Planner (210) 207- 3074, debora.gonzalez@sanantonio.gov, Development Services Department)

Staff stated 15 notices were mailed to property owners within 200 feet, 1 returned in favor, and 0 returned in opposition with no registered neighborhood association.

Brian Phillips, 12122 Colwick Drive, stated the applicant will construct a new building in an area with older buildings. He would also like to cover the “ugly” fence and will cap and make the fence safe.

No Citizens appeared to speak.

Motion: Chair Martinez asked for a **motion** for item **BOA-19-10300026**, as presented.

Motion: Rodriguez made a motion to approve item **BOA-19-10300026**

Regarding Appeal No **BOA-19-10300026**, a request for a variance from the restriction of corrugated metal as a fencing material to allow for the use of fencing, situated at 12122 Colwick Drive, applicant being Aero Cosmetics.

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 corrugated metal fence will be located away from public sidewalks and away from public right-of-way. 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 keep the corrugated 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 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 corrugated metal fence does not affect 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 fence will be built with a combination of fence materials away from the public not exposing the corrugated metal. It is difficult to establish how the request could harm adjacent owners or detract from the character of the community.

Motion: Dr. Zottarelli made a motion for Approval of **BOA-19-10300026**

Second: Bragman

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

Opposed: None

Recused: Oroian

Motion Granted

Mr. Oroian returned to the meeting at 2:18 pm – The Board of Adjustment recessed for a break at 2:18pm and reconvened at 2:30pm

Item # 7 **BOA 19-10300032** A Request by Josepha Rodriguez for a 4'11" variance from the 5' side setback requirements to allow for a detached carport to be 1" away from the side property line, located at 553 West Harlan Avenue. Staff recommends Denial with an Alternate Recommendation. (Council District 3) (Mercedes Rivas, Planner, (210) 207-0215, Mercedes.Rivas2@sanantonio.gov, Development Services Department)

Staff stated 30 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition and no registered neighborhood association.

George and Josephina Rodriguez, 553 Harlan Avenue, stated the carport is made of galvanized metal and not a fire hazard. The Carport slopes to the rear but rain falls on their property. He also stated when got permission from his neighbor when he constructed it.

The Following Citizens appeared to speak.

Monica Ramirez, 557 W. Harlan Ave, spoke in support

Motion: Chair Martinez asked for a **motion** for item **BOA 19-10300032**, as presented.

Motion: Mr. Oroian made a motion to approve item **BOA 19-10300032**

Regarding Appeal No BOA-19-10300032, a request for a 4' variance from the 5' side setback to allow an existing attached carport to be 1' from the side property line, situated at 553 West Harlan Avenue, applicant being Josepha Rodriguez.

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.*

Alternate recommendation for a 1' side setback is more appropriate because it 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 Board finds that the modification of the attached carport to be 1' from the side property line 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.*

Modifying the attached carport to be 1' from 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 Board finds that a 1' 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 reduced setbacks of 1' from the side property line to alleviate concerns of storm water runoff, fire spread, and maintenance of the structure.

Motion: Mr. Oroian made a motion for approval as presented.

Second: Mr. Manna

In Favor: Oroian, Manna, Dr. Zottarelli, Cruz, Britton, Trevino, Neff, Fisher, Rodriguez, Bragman, Martinez

Opposed: None

Motion Granted

- Item # 8** **BOA-19-10300034** A request by Maria Castillo for 1) a 4' variance from the 5' side setback requirement to allow for a carport to be 1' away from the side property line, 2) a special exception to allow a privacy fence to be up to 8' tall on the west and rear property line, and 3) a variance from the restriction of corrugated metal as a fencing material to allow for the use of fencing, located at 423 West Norwood Court. Staff recommends Denial with an Alternate Recommendation. (Council District 1) (Mercedes Rivas, Planner, (210) 207-0215, Mercedes.Rivas2@sanantonio.gov, Development Services Department)

Applicant requested a continuance to May 20, 2019.

Motion: Dr. Zottarelli made a **motion** for a continuance to **May 20, 2019**

Second: Cruz

In Favor: Dr. Zottarelli, Cruz, Oroian, Manna, Britton, Trevino, Neff, Fisher, Rodriguez, Bragman, Martinez

Opposed: None

Motion Granted

- Item # 9** **BOA-19-10300037** A request by Jose Gallegos for 1) an 3' variance from the 5' side setback requirement to allow an attached dwelling unit to be 2' away from the side property line, and 2) an 8' variance from the 10' rear setback requirement to allow an attached dwelling unit to be 2' away from the rear property line, located at 916 North San Jacinto. Staff recommends Denial with an Alternate Recommendation. (Council District 1) (Mercedes Rivas, Planner, (210) 207-0215, Mercedes.Rivas2@sanantonio.gov, Development Services Department)

Staff stated 27 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition and no response from the West End Hope in Action Neighborhood Association.

Jose Gallegos, 916 N. San Jacinto, after discussing his case and answering Board questions, **Mr. Gallegos requested a postponement to May 20, 2019.**

No Action Taken

- Item # 10** **BOA 19-10300039** A Request by Julieta Serna for a 4'11" from the 5' side setback requirement to allow an addition to be 1" away from the side property line, located at 126 Beatrice Avenue. Staff recommends Denial with an Alternate Recommendation. (Council District 3) (Mercedes Rivas, Planner, (210) 207-0215, Mercedes.Rivas2@sanantonio.gov, Development Services Department)

Staff stated 37 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition and no registered neighborhood association.

Julieta and Melissa Serna, 126 Beatrice Avenue, stated they did build without a permit and took down a privacy fence to build on to their property and stated they needed an extra bathroom and asked for the Boards Approval.

The Following Citizens appeared to speak.

Jose Serna, 126 Beatrice Avenue, spoke in favor

Motion: Chair Martinez asked for a **motion** for item **BOA 19-10300039**, as presented.

Motion: Mr. Neff made a motion to approve item **BOA 19-10300039**

Regarding Appeal No BOA-19-10300039, a request for a **3'4"** from the 5' side setback requirement to allow an addition to be **1'8"** away from the side property line, situated at 126 Beatrice Avenue, applicant being Julieta Serna.

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 recommendation of this variance is appropriate because it is not adjacent to an adjoining structure on the property own by the same person.

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

The 1'8" 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 1'8" 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 1'8" 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 addition placement with a 1'8" setback from the side property line as this would alleviate concerns of storm water runoff, fire spread, and maintenance of the structure before this Board and not future additions.

Second: Rodriguez

After further discussion Mr. Neff modified his motion to read 1'6" setback instead of 1'8" and Mr. Rodriguez agreed.

In Favor: Neff, Rodriguez, Oroian, Dr. Zottarelli, Cruz, Britton, Bragman, Manna, Trevino, Fisher, Martinez

Opposed: None

Motion Granted

Approval of Minutes

Item # 11 Consideration and Approval of the Minutes from April 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 3:32 p.m.

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary

DRAFT