

City of San Antonio



Board of Adjustment Minutes

Development and Business Services
Center
1901 South Alamo

June 3, 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, Neff, Rodriguez, Britton, Manna, Teel, Bragman, Trevino, Oroian, Fisher, Martinez
- Absent: Malone, Cruz

Nancy Prias 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

Mr. Rodriguez arrived at 1:05pm to the Board of Adjustment Meeting.

Item # 1 (Continuance from 05/20/19) **BOA-19-10300034**: A request by Maria and Gilbert Castillo for a 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)

Staff stated 31 notices were mailed to property owners within 200 feet, 1 returned in favor, and 0 returned in opposition and no response from the Edison Neighborhood Association.

Erica Castillo, 423 Norwood Ct, stated the fence was there prior to her moving in and will do what she needs to correct the issue. She explained the fence provides security and there other neighbors have similar fences.

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-19-10300034**

Motion: Mr. Oroian made a motion to approve case **BOA-19-10300034**

Regarding Appeal No **BOA-19-10300034**, a request for 2) a special exception to allow a privacy fence to be up to 8' tall on the west and rear property line situated at 423 West Norwood Court, applicant being Maria and Gilbert Castillo.

I move that the Board of Adjustment grant the applicant's request for the special exception to the subject property as described above, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

A. *The special exception will be in harmony with the spirit and purpose of the chapter.*

The spirit of the chapter is intended to provide for reasonable protections to property owners and to establish a sense of community within our neighborhoods. The request for an 8' foot tall fence in the along the side and rear property lines is in harmony with the spirit of the chapter. No portion of the fence is in violation of the Clear Vision field.

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

The public welfare and convenience can be served by the added protection of higher fencing, allowing the owner to protect the subject property.

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

No portion of the fence is 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 front yard fence will create enhanced security for subject property and is highly unlikely to injure adjacent properties.

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

The property is located within the “R-4” Residential zoning district and permits the current use of a single-family home. Therefore, the requested special exception will not weaken the general purpose of the district.

Second: Neff

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

Opposed: None

Motion Granted

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-19-10300034**

Motion: Dr. Zottarelli made a motion to approve case **BOA-19-10300034**

Regarding Appeal No **BOA-19-10300034** a request for a 1) **3'** variance from the 5' side setback requirement to allow for a carport to be **2'** away from the side property line, and 3) a variance from the restriction of corrugated metal as a fencing material to allow for the use of fencing, situated at 423 West Norwood Court, applicant being Maria and Gilbert Castillo.

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 3' setback from the side property line adequately addresses fire separation needs and provides adequate space to maintain the structure without trespass. In this case, the fence was built with corrugated metal. 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.*
The 3' setback from 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.*
The 3' setback 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 2' setback from side property line would alleviate concerns of injuring the appropriate use of adjacent conforming properties. 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 Board supports the attached carport placement with a 2' setback from side property line would alleviate concerns of storm water runoff, fire spread, and maintenance of the structure.

Second: Teel

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

Opposed: None

Motion Granted

Mr. Neff recused himself from Item #2 case # BOA-19-10300044 at 1:39pm

Item # 2 (Continuance from 5/20/2019) BOA-19-10300044 A request by Vaneza M. Alvarado for 1) a 4' variance from the 5' side setback requirement to allow a detached structure to be 1' from the side property line, 2) a 4' variance from the 5' rear setback requirement to allow a detached structure to be 1' from the rear property line, 3) a 12' variance from the 20' garage setback requirement to allow a garage to be 8' from the side property line, 4) a special exception to allow an 8' fence along the rear property line, 5) a variance from the Clear Vision standards to allow a fence to be within the Clear Vision field, and 6) a special exception to allow a 5' tall solid screen fence in the front yard of the property, located at 132 Rehmann Street. Staff recommends Denial, with an Alternate Recommendation.(Council District 1) (Debora Gonzalez, Senior Planner (210) 207- 3074, debora.gonzalez@sanantonio.gov, Development Services Department)

Staff stated the applicant requested a continuance to June 17, 2019.

The Following Citizens appeared to speak

Sabin Alacon, 130 Rehmann, spoke 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.

Motion: Chair Martinez asked for a motion for item BOA-19-10300044, as presented.

Motion: Mr. Oroian made a motion for BOA-19-10300044 for continuation to June 17, 2019

Second: Dr. Zottarelli

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

Opposed: None

Motion Granted

Recused: Neff

Mr. Neff returned to the Board of Adjustment at 1:45pm

Mr. Oroian recused himself from the Board of Adjustment at 1:45pm

Item #3 **BOA-19-10300056:** A request by Alvin G. Peters for a 1) a 25' variance from the 30' rear setback requirement to allow a structure to be 5' from the rear property line, and 2) a 2.5' variance from the 10' side setback requirement described in to allow a structure to be 7.5' from the side property line, 3) an 8' variance from the 15' Type B landscape bufferyard requirement to allow a bufferyard to be as narrow as 7' along the side property line, and 4) 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, located at 2101 Leal Street. Staff recommends Approval. (Council District 5) (Mercedes Rivas, Planner, (210) 207-0215, Mercedes.Rivas2@sanantonio.gov, Development Services Department)

Staff stated 32 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition and no response from the Prospect Hill and Westend Hope in Action Neighborhood Associations.

Alvin Peters, 1016 E. Boerne Texas, stated his property is surrounded by residential and schools. His applicant needs to expand his business and wanted to follow the code. Mr. Peters addressed the buffer, dumpster and parking issues.

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-19-10300056**, as presented.

Motion: Mr. Manna made a motion for **BOA-19-10300056** for approval.

Regarding Appeal No **BOA-19-10300056**, a request for 1) a 25' variance from the 30' rear setback requirement to allow a structure to be 5' from the rear property line, and 2) a 2.5' variance from the 10' side setback requirement to allow a structure to be 7.5' from the side property line, 3) an 8' variance from the 15' Type B landscape bufferyard requirement to allow a bufferyard to be as narrow as 7' along the side property line, and 4) a 10' variance from the 15' Type B landscape bufferyard to allow a bufferyard to be as narrow as 5' along the rear property line, situated at 2101 Leal Street, applicant being Alvin G. Peters.

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 bufferyards are not contrary to public interest as they do not negatively impact any surrounding properties or the general public. The property does not currently benefit from any bufferyard and even the reduced bufferyard proposed by the applicant will enhance the property. The Board 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 and building setback requirements.*
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

The intent of rear and side setbacks is to create an open area without crowding of structures and to establish uniform development standards to protect the rights of property owners. The side and rear setback reduction of the subject property will not significantly disrupt uniformity and will not injure the rights of adjacent property owners. In this case, the reduced bufferyard will be consistent with neighboring properties.

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

The requested variances will not authorize the operation of a use on the subject property other than those specifically authorized in 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 bufferyards required by the code, the provision of landscape bufferyards will still enhance the community and the proposed project. Further, the side and rear setback reduction will not produce water runoff on adjacent properties and will not require trespass to maintain the structure.

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 subject property is small in size which would leave very little room for the proposed addition.

Motion: Mr. Manna made a motion to approve the case **BOA-19-10300056**

Second: Mr. Neff

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

Opposed: None

Recused: Oroian

Motion Granted

Mr. Oroian returned the Board of Adjustment at 2:00pm

- Item # 4** **BOA-19-10300060:** A request by Mitsuko Ramos for a 1) a 14'11" variance from the 15' Type B bufferyard requirement along the front property line to allow the front bufferyard to be 1", and 2) to waive the planting requirement for shrubs along the front bufferyard to allow a bufferyard to contain only trees, located at 86 NE Loop 410. Staff recommends Approval. (Council District 1) (Mercedes Rivas, Planner, (210) 207-0215, Mercedes.Rivas2@sanantonio.gov, Development Services Department)

Staff stated 11 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition and no response from the Shearer Hills Ridgeview Neighborhood Association.

Mitsuko Ramos, 86 NE Loop 410, introduced her team and gave a detailed presentation on the project. She stated they worked closely with the community and answered all of the Boards questions

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-19-10300060**, as presented.

Motion: Mr. Oroian made a motion for **BOA-19-10300060** for approval.

Regarding Appeal No **BOA-19-10300060**, a request for 1) a 14'11" variance from the 15' Type B bufferyard requirement along the front property line to allow the front bufferyard to be 1", and 2) to waive the planting requirement for shrubs along the front bufferyard to allow a bufferyard to plant only trees, situated at 86 NE Loop 410, applicant being Mitsuko Ramos.

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 requested bufferyards are not contrary to public interest as they do not negatively impact any surrounding properties or the general public. The property does not currently benefit from any bufferyard 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 parking spaces which may leave the development with insufficient parking spaces to operate the commercial use.*

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

In this case, the reduced bufferyard will be consistent with neighboring properties.

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

The requested variances will not authorize the operation of a use on the subject property other than those specifically authorized in 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 bufferyards required by the code, the provision of landscape bufferyards 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 that there is currently an existing 15' bufferyard along the front property line.

Motion: Mr. Oroian made a motion to approve the case **BOA-19-10300060**

Second: Mr. Manna

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

Opposed: None

Motion Granted

The Board of Adjustment recessed at 2:25pm and reconvened at 2:33pm

Item # 5 **BOA-18-10300057** a request by Derek Brozowski for a special exception to allow an existing 8' fence along the rear property line, within the rear yard, located at 4906 Still Creek. Staff recommends Approval. (Council District 6) (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, 2 returned in favor, and 0 returned in opposition and no registered neighborhood association.

Derek Brozowski, requested to build a 8 foot fence along the rear property line for privacy and security.

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-19-10300057**, as presented.

Motion: Ms. Cruz made a motion for **BOA-19-10300057** for approval.

Regarding Appeal No **BOA-19-10300057**, a request for a special exception to allow an existing 8' fence along the rear property lines within the rear yard, situated at 4906 Still Creek, applicant being Derek Brozowski.

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 backyard for the residents. 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 fence height will be built along the rear property line to provide a more secure and private backyard for the residents. 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 8' fence along the rear 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 in order to provide a more secure and private backyard for the residents. Therefore, the requested special exception will not weaken the general purpose of the district.

Motion: Mr. Teel made a motion to approve the case **BOA-19-10300057**

Second: Mr. Rodriguez

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

Opposed: None

Motion Granted

Item # 6 **BOA-19-10300065** A request by Thomas Simms Oliver for a 799 square foot variance from the maximum 800 square foot floor area to allow a 1,599 square foot detached dwelling unit located at 162 Cave Lane. Staff recommends Approval. (Council District 10) (Debora Gonzalez, Senior Planner (210) 207- 3074, debora.gonzalez@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 and no response from the Oak-Park North Woods Neighborhood Association.

Thomas Simms Oliver, 162 Cave Lane, is requesting a variance to build a structure for his mother in law on his property and wanted to follow all the proper channels.

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-18-10300065**, as presented.

Motion: Dr. Zottarelli made a motion to approve item **BOA-18-10300065**

Regarding Appeal No **BOA-19-10300065**, a request for a 799 square foot variance from the maximum 800 square foot floor area to allow a 1,599 square foot detached dwelling unit, situated at 162 Cave Lane, applicant being Thomas Simms Oliver.

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.*

Given the large lot size and location of the proposed dwelling unit within the rear yard, the variance is highly unlikely to be noticed from the public right-of-way.

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

Although the proposed dwelling unit is set well within the rear yard and out of view of the public right-of-way due to the location of the structure and bounded by mature trees, literal enforcement of the ordinance would result in the owner being unable to develop the project.

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

The spirit of the ordinance is the intent of the requirement rather than the strict letter of the law. The accessory dwelling is not overwhelming in comparison to the principal structure and is situated within a lot of substantial size.

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 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 size of the accessory dwelling unit is proportional to the size of the principal dwelling and the size of the lot. Further, the accessory dwelling unit will comply with the one bedroom one bath requirement of the code. The structure will not impose any immediate threat of water runoff or fire spread onto adjacent properties due to the adherence of all setbacks within the 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 applicant has a substantial lot with a large home and is bounded by mature trees and dense foliage. The accessory dwelling unit will be proportional in size with the principal structure and follows all setbacks and permitting requirements.

Motion: Dr. Zottarelli made a motion to approve item **BOA-18-10300065**

Second: Oroian

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

Opposed: None

Motion Granted

Item # 7 **BOA-19-10300055** A request by Crecencio Torres for request for 15' variance from the 20' rear setback requirement to allow an addition to be 5' from the rear property line, located at 911 Willow Avenue. Staff recommends Approval. (Council District 2) (Debora Gonzalez, Senior Planner (210) 207- 3074, debora.gonzalez@sanantonio.gov, Development Services Department)

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

Crecencio Torres, 911 Willow Ave, requested Interpreter services, stated he did not know he needed a permit and merely wanted to add to his home to make his family comfortable.

The Following Citizens appeared to speak.

Geraldo Herrera, 125 Shear St, spoke 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-19-10300055**, as presented.

Motion: Mr. Rodriguez made a motion to approve item **BOA-19-10300055**.

Regarding Appeal No **BOA-19-10300055**, a request for 15' variance from the 20' rear setback requirement to allow an addition to be 5 from the rear property line, situated at 911 Willow Avenue, applicant being Crecencio Torres.

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 public interest is represented by the minimum separation between homes to allow quiet enjoyment of outdoor space. The addition aligns with the existing structure and abuts a 15' wide public alley to the north side; the outdoor space is located on the south side of the house. The addition will be in harmony with the neighboring properties. The Board finds that 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.*

Literal enforcement of the ordinance would not allow the owner of the property to expand the dwelling as proposed. The structure would need to be redesign.

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

The intent of rear setbacks is to create an open area without crowding of structures and to establish uniform development standards to protect the rights of property owners. The rear reduction of the subject property will not significantly disrupt uniformity and will not injure the rights of adjacent property owners.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought 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 requested variance will not be visible from the public right of way or alter the essential character of the district. The rear reduction will not produce water runoff on adjacent properties and will not require trespass to maintain the structure.

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 present in the case is that the property addition does meet the side setback and being a reverse corner lot the outdoor space of this property is located in the side instead of the rear. This setback issue is not merely financial in nature.

Second: Mr. Neff

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

Opposed: None

Motion Granted

Item # 8 **BOA 19-10300037** A request by Jose Gallegos for a 1) a 1' variance from the 5' south side setback requirement to allow an attached dwelling unit to be 4' away from the south side property line, 2) an 8' variance from the 10' rear setback requirement to allow an attached dwelling unit and carport to be 2' away from the rear property line, and 3) a 2' variance from the 5' side setback requirement to allow an attached carport to be 3' from the side property line, as described in Section 35-371(a), to allow an attached carport to be 2' 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 28 notices were mailed to property owners within 200 feet, 7 returned in favor, and 0 returned in opposition and no response from the West End Hope in Action Neighborhood Association.

Jose Gallegos, 214 W. Academy, addressed the carport issues and stated it was built over 20 years ago. He did agree to comply with the Boards decision.

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 19-10300037**, as presented.

Motion: Mr. Oroian made a motion to approve item **BOA 19-10300037** as amended

Regarding Appeal No **BOA-19-10300037**, a request for 1) a 1' variance from the 5' south side setback requirement to allow an attached dwelling unit to be 4' away from the south side property line, 2) an 5' variance from the 5' rear setback requirement to allow an attached dwelling unit and carport to be 2' away from the rear property line, 3) a 2' variance from the 5' side setback requirement to allow an attached carport to be 3' from the side property line, situated at 916 North San Jacinto, applicant being Jose Gallegos.

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 4' setback from the south side property line, a 5' setback from the rear property line, and a 3' 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 4' setback from the south side property line, a 5' setback from the rear property line, and a 3' setback 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.*

The 4' setback from the south side property line, a 5' setback from the rear property line, and a 3' 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 4' setback from the south side property line, a 5' setback from the rear property line, and a 3' 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 placement of the structures with a 4' setback from the south side property line, a 2' setback from the rear property line, and a 3' setback from the side property line as it would alleviate concerns of storm water runoff, fire spread, and maintenance of the structure.

Mr. Neff offered an amendment to keep the original variance request written by staff.

Mr. Oroian accepted the amendment and Mr. Rodriguez concurred.

Second: Mr. Rodriguez

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

Opposed: None

Motion Granted

The Board of Adjustment recessed for a break at 3:42pm and returned at 3:49pm

Mr. Oroian recused himself at 3:49pm prior to case BOA -19-10300062

Item # 9 **BOA-19-10300062** A request by Grant Garbo for an appeal of the Historic Preservation Officer's decision, located at 527 East Huisache Avenue. Staff recommends Denial. (Council District 1) (Debora Gonzalez, Senior Planner (210) 207- 3074, debora.gonzalez@sanantonio.gov, Development Services Department)

Corey Edwards of the Office of Historical Preservation presented the Board of Adjustment with the facts of the case and answered the Boards questions.

Dr. Grant Garbo, 527 East Huisache Ave, inquired about tabling the item, and gave advance notice he that he would but chose to give a brief presentation of his request. Stated the project came about out of a personal situation. He wishes to establish a smaller facility than what is currently zoned for.

The Following Citizens appeared to speak

Felipe Sandoval, 510 E. Mulberry, opposed project
James Thurwalker, 507 E. Huisache, opposed project
Floyd Daigle, yielded time to Barbara Beck
Barbara Beck, 431 Queens Cresent, opposed project
David Leal, 330 E. Huisache Ave, opposed project
Melody Hall, 324 W. Breswood, yielded time to Paul Kinnison
Paul Kinnison, 418 W. French, opposed project
Pat Eisenhower, 520 E. Huisache, opposed project
Antonio Garcia, 505 E. Huisache, opposed project
Cee Winkler, 535 E. Huisache, opposed project
Esther Contreras, 551 E. Huisache, opposed to project
Josephine De Leon, 519 E. Huisache, yielded time to Tony Garcia
Tony Garcia, 243 E. Huisache, opposed to project
Debora Robles, 10504 Pablo Way, supports project
Dr. Erik Conner, 6443 LionHeart Park, supports projects
Christina Scott, 508 W. Gramercy Place, supports project

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-19-10300062**

Motion: Mr. Teel made a motion for a continuance on case **BOA-19-10300062** until **June 17th, 2019**

Second: Rodriguez

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

Opposed: None

Recused: Oroian

Motion Granted

Mr. Oroian recused himself at 3:49pm prior to case BOA -19-10300059 and BOA-19-10300062

Item # 10

BOA-19-10300059 A request by Grant Garbo for 1) variance to allow up to 4 head in parking spaces off of an alley without providing a turnaround and 2) a parking adjustment to decrease a 4.5 parking space requirement to allow 4 parking spaces, located at 527 East Huisache Avenue. Staff recommends Denial. (Council District 1) (Debora Gonzalez, Senior Planner (210) 207- 3074, debora.gonzalez@sanantonio.gov, Development Services Department)

Staff stated 29 notices were mailed to property owners within 200 feet, 6 returned in favor, and 21 returned in opposition, 5 received in opposition outside of the 200 ft radius. Monte Vista Neighborhood Association is opposed & No response from the Tobin Hill Community Association.

Kevin Collins, 1901 S. Alamo, DSD Traffic Engineer, addressed the Boards questions regarding parking issues.

Melissa Ramirez, 1901 S. Alamo, DSD Assistant Director, clarified Emergency Response question.

Grant Garbo, 507 East Huisache Ave, gave a presentation showing a large number of properties with a similar use and answered questions from the Board.

Mr. Teel left the meeting at 5:00pm leaving 9 members to hear the case.

The Board of Adjustment recessed at 5:07pm for a break and returned at 5:16pm.

Mr. Britton did not return to the Meeting leaving the Board with 8 members and not able to take any action on case BOA-19-10300059.

Mr. Martinez made a motion to continue the meeting to June 17th, when a full quorum is available. Mr. Martinez gave the citizens the option to be heard but the Board will not deliberate on this item.

The Following Citizens appeared to speak.

Paul Kinnison, 418 W. French Place, spoke on behalf of the Monte Vista Association will respond at the next meeting.

James Thurwalker, 507 E. Huisache Ave, spoke in opposition

Barbara Beck, 451 Queens Crescent, spoke in opposition

Floyd Daigle, 414 Kings Hwy Ct, spoke in opposition

David Leal, 330 E. Huisache Ave, spoke in opposition

Once the Citizens were given an opportunity to be heard Mr. Martinez asked for a motion.

Motion: Mr. Neff made a motion for case **BOA – 19-10300059** be continued to June 17th.

Second: Mr. Rodriguez

A voice vote was taken with all members voting in the affirmative.

Mr. Oroian returned from the meeting at 5:21pm after his recusals.

Approval of Minutes

Item # 11 Consideration and Approval on the Minutes from **March 20th, 2019.**

Mr. Martinez then made a motion to approve the minutes for May 20, 2019 as presented with all the Members voting in the affirmative.

Directors Report: None

Adjournment

There being no further business, the meeting was adjourned at 5:22 p.m.

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

DATE: _____

ATTESTED BY: [Signature] DATE: June 18, 19
Executive Secretary