

City of San Antonio



Board of Adjustment Minutes

Development and Business Services
Center
1901 South Alamo

June 17, 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, Malone, Rodriguez, Cruz, Britton, Manna, Teel, Bragman, Trevino, Oroian, Fisher, Schaufele, Martinez
- Absent: Neff

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 6/3/2019) 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)

Vaneza M. Alvarado requested a continuance to July 1, 2019.

The Following Citizen appeared to speak.

Sabino Alacon, 123 Rehman St, spoke in opposition showed a presentation.

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**

Motion: Dr. Zottarelli made a motion for a continuance to case **BOA-19-10300044** to July 1, 2019.

Second: Britton

A voice vote was taken which passed unanimously.

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

Opposed: None

Motion Granted

Mr. Oroian recused himself from the Board of Adjustment at 1:21pm for cases #2 & #3

Item # 2 **(Continuance from 6/3/2019) 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)

Staff stated the applicant requested a continuance to July 1, 2019.

The Following Citizens appeared to speak

Paul Kinnison, 418 W. French Place, spoke on behalf of all 12 residents present and reserved the right to speak until July 1, 2019. Mr. Kinnison asked the all the members rise to be acknowledged.

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**, as presented.

Motion: Dr. Zottarelli made a motion for a continuation of **BOA-19-10300062** to July 1, 2019

Second: Rodriguez

A voice vote was taken which passed unanimously.

In Favor: Dr. Zottarelli, Rodriguez, Cruz, Fisher, Malone, Britton, Teel, Schuaffele, Bragman, Manna, Martinez

Opposed: None

Motion Granted

Recused: Oroian

Item #3 **(Continuance from 6/3/2019) 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 the applicant requested a continuance to July 1, 2019.

The Following Citizens appeared to speak

Paul Kinnison, 418 W. French Place, spoke on behalf of all 12 residents present and reserved the right to speak until July 1, 2019. Mr. Kinnison asked the all the members rise to be acknowledged.

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-19-10300059**, as presented.

Motion: Dr. Zottarelli made a motion for a continuation of **BOA-19-10300059** to July 1, 2019

Second: Rodriguez

In Favor: Dr. Zottarelli, Rodriguez, Cruz, Malone, Britton, Teel, Fisher, Schauffele, Bragman, Manna, Martinez

Opposed: None

Motion Granted

Recused: Oroian

Mr. Oroian returned to the Board of Adjustment at 1:24pm

Item # 4 **BOA-19-10300067:** A request by J.T. Martinez for a 1.3' variance from the 5' side setback requirement to allow a structure to be 3.7' from the side property line, located at 9031 Oak Meadows Run. Staff recommends Approval. (Council District 7) (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, 0 returned in favor, and 0 returned in opposition and no registered neighborhood association.

J.T. Martinez, 3803 Pipers Meadow, gave a detailed presentation on the project. He stated they will work closely with the City 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-19-10300067**, as presented.

Motion: Mr. Manna made a motion for **BOA-19-10300067** for approval.

Regarding Appeal No **BOA-19-10300067**, a request for 1.3' variance from the 5' side setback requirement to allow a structure to be 3.7' from the side property line, situated at 9031 Oak Meadows Run, 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 encroachment on the rear corner of the property line was discovered after the last field visit by the survey crew. The owner is unable to sell the property until after this variance is approved. The neighboring property is at 5.5' from the shared property line. 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. Due to the finalized construction of the structure, a literal enforcement of the ordinance would result in unnecessary hardship by requiring demolition of that portion of the east rear corner that encroaches into the side yard setback.*

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

The spirit of the ordinance is the intent of the code, rather than the strict letter of the law. The intent of the setback limitation is to prevent fire spread, allow adequate space for maintenance, and encourage proper storm water drainage. All intents of this law will be observed if approved.

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.*

This variance would not substantially injure or alter the use or character of adjacent conforming property or character of the district. The requested variance is not visible from the public right of way due to the encroachment being on the rear corner.

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

The unique circumstances existing on the property are neither due to the general conditions of the district, nor due to the owner, and is not financial in nature. The plight of the owner originates from the last completed survey where the encroachment was discovered.

Motion: Mr. Manna made a motion to approve the case **BOA-19-10300067**

Second: Dr. Zottarelli

In Favor: Manna, Dr. Zottarelli, Oroian, Cruz, Rodriguez, Malone, Britton, Bragman, Schuaffele, Teel, Martinez

Opposed: None

Motion Granted

The Board of Adjustment recessed at 1:34pm and reconvened at 1:42pm

- Item # 5** **BOA-19-10300066:** A request by Scott Thomas for a 1'6" variance from the 15' rear setback requirement to allow an attached addition to be 13' 6" away from the rear property line, located at 2907 Barrel Oak. Staff recommends Approval. (Council District 8) (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, 0 returned in favor, and 0 returned in opposition and no response from the Oak Meadow Neighborhood Association.

Scott Thomas, 15242 White Patio, stated his applicant wishes to modernize his kitchen for his wife and this is his best option.

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-19-10300066**, as presented.

Motion: Teel made a motion for **BOA-19-10300066** for approval.

Regarding Appeal No **BOA-19-10300066**, a request for a 1'6" variance from the 15' rear setback requirement to allow an attached addition to be 13' 6" away from the rear property line, situated at 2907 Barrel Oak, applicant being Scott Thomas.

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 will align with both sides of the existing home and the existing patio located in the rear yard. 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 permit the owner of the property to expand upon the existing home as proposed. The structure would need to be redesigned.

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 reduction of the rear building setback line 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 reduction of the rear building setback line 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 odd shape of the lot which gives the owner limited addition construction options. The addition will meet the side building setback requirement. Further, this setback issue is not merely financial in nature as the lot is shaped oddly.

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

Second: Ms. Bragman

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

Opposed: None

Motion Granted

Item # 6 **BOA-19-10300070:** A request by Henry A Hernandez for a special exception to allow a 6' predominantly open fence within the front yard, located at 201 Le Compte Place. Staff recommends Approval. (Council District 5) (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, 0 returned in favor, and 0 returned in opposition and no registered neighborhood association.

Henry A. Hernandez, 201 Le Compte Place, stated the fence was built for security and safety. He believes it adds value to the property and will do what is needed to come into compliance.

The Following Citizens appeared to speak.

Bertha Rodriguez, 130 Le Compte Place, 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-18-10300070**, as presented.

Motion: Mr. Rodriguez made a motion to approve item **BOA-18-10300070**

Regarding Appeal No **BOA-19-10300070**, a request for a special exception to allow a 6' predominantly open fence within the front yard, situated at 201 Le Compte Place, applicant being Henry A Hernandez.

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 allows a 5' predominantly open fence by right. 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 secure space for the residents. If granted, this request would be in harmony with the spirit and purpose of the ordinance. No portions of the fence 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 was built along the front property line to provide a secure space 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 is violation of the Clear Vision field. No adjacent property owner, nor the traveling public, will be harmed by the existing fence.

D. The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought.

The 6' fence along the front property line would not significantly alter the overall appearance of the district and would provide added security and protection for the property owner.

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

The purpose of the fencing standards is to protect the health, safety, and general welfare of the public. This special exception request is to allow a 6' fence in order to provide a more secure and private space for the residents. Therefore, the requested special exception will not weaken the general purpose of the district.

Motion: Mr. Rodriguez made a motion to approve item **BOA-19-10300070**

Second: Oroian

In Favor: Rodriguez, Dr. Zottarelli, Oroian, Cruz, Malone, Teel, Manna, Schuaffele, Britton, Bragman, Martinez

Opposed: None

Motion Granted

Item # 7 **BOA-19-10300068:** A request by GuoLian Zhou for a special exception to allow a proposed 6'6" combined fence along the front property line, located at 1251 Blue Crest Lane. Staff recommends Approval. (Council District 9) (Mercedes Rivas, Planner, (210) 207-0215, Mercedes.Rivas2@sanantonio.gov, Development Services Department)

Staff stated 25 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition and the Blue Ridge Estates Neighborhood Association is in favor.

GuoLian Zhou, 1251 Blue Crest Lane, is requesting the special exception for privacy and security reasons.

No Citizens appeared to speak.

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

Motion: Chair Martinez asked for a motion for item **BOA-19-10300068**, as presented.

Motion: Ms. Bragman made a motion to approve item **BOA-19-10300068**.

Regarding Appeal No **BOA-19-10300068**, a request for a special exception for a proposed 6'6" combined fence consisting of solid screen cinderblock and chopped limestone along the front property line, situated at 1251 Blue Crest Lane, applicant being GuoLian Zhou.

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 secure and private space 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 front property line to provide a secure and private space 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 6'6" fence along the front property line would not significantly alter the overall appearance of the district and would provide security for the property owner. Several properties on this street have fences similar to the fence being requested.

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

The purpose of the fencing standards is to protect the health, safety, and general welfare of the public. The special exception request is to allow a 6'6" fence in order to provide a more secure and private space for the residents. Therefore, the requested special exception will not weaken the general purpose of the district.

Second: Mr. Rodriguez

In Favor: Bragman, Rodriguez, Cruz, Teel, Dr. Zottarelli, Malone, Manna, Oroian Britton, Schuaffele

Opposed: Martinez

Motion Granted

Approval of Minutes

Item # 8 Consideration and Approval on the Minutes from June 17, 2019.

Mr. Martinez then made a motion to approve the minutes for June 17, 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 2:30p.m.

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

DATE: _____

ATTESTED BY: W. L. Marking DATE: July 8, 19
Executive Secretary