City of San Antonio

Board of Adjustment Minutes

Development and Business Services
Center
1901 South Alamo

July 1, 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. Schauffele | Vacant

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

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

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. Neff recused himself from case # BOA-19-10300044 at 1:11pm

Item # 1 **(Continuance from 6/17/19) 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 34 notices were mailed to property owners within 200 feet, 0 returned in favor, and 4 returned in opposition and 2 outside the 200' radius no response from the Collins Gardens Neighborhood Association.

Vaneza M. Alvarado, 132 Rehmann St, was not present.

The following Citizens appeared to speak.

Sabino Alacon, 130 Rehman St, opposed

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: Mr. Manna made a motion to approve case **BOA-19-10300044**

Regarding Appeal No **BOA-19-10300044**, a request for **1) a 2' variance from the 5' side setback requirement to allow a detached structure to be 3' from the side property line, 2) a 2' variance from the 5' rear setback requirement to allow a detached structure to be 3' 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, and 5) a variance from the Clear Vision standards to allow a fence to be within the Clear Vision field, situated at 132 Rehmann Street, applicant being Vaneza M. Alvarado.

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 served by setbacks, which help to provide consistent development within the City of San Antonio. In this case, the variances are not contrary to the public as the detached structure does not impose harm to the public and the Clear Vision field does not negatively impact any surrounding properties or the general public. The Board finds that the variances requested are not contrary to the public interest.

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

Literal enforcement would result in the removal of the entire detached structure. The established detached structure configuration along this compact lot calls for rear entry garages and carports located very near the rear property line, and often less than three feet from the side and rear property lines.

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 code is to provide for consistent development and the requests provide fair and equal access to air and light, and provide for adequate fire separation.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized*

The variances 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.*

In older neighborhoods such as this, it is common for homeowners to purchase renovated or new structures encroaching into setbacks established by the current Unified Development Code. The requests will not detract from the character of the district. The proposed detached structure is in the rear of the home, not affecting the public right-of-way or the clear vision ordinance. Within the time span the original garage has been in place, there has been no observed harm done to adjacent properties. Therefore, it is unlikely the request will injure the 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 existing on the property is that the proposed detached structure was originally built in the current location. As there are other detached structures in the side and rear yard this is the only space available in the lot.

Second: Mr. Oroian

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

Opposed: None

Recused: Neff

Motion Granted

Motion: Chair Martinez asked for a motion for item **BOA-19-10300044** Special Exception

Motion: Mr. Oroian made a motion to approve case **BOA-19-10300044** Special Exception

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.

Regarding Appeal No **BOA-19-10300044**, a request for 4) a special exception to allow an 8' fence along the rear property line, and 6) a special exception to allow a 5' tall solid screen fence in the front yard of the property, situated at 132 Rehmann Street, applicant being Vaneza M. Alvarado.

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 privacy and security to the applicant's property. If granted, this request would be in harmony with the spirit and purpose of the ordinance.

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

In this case, these criteria are represented by maximum fence heights to protect residential property owners while still promoting a sense of community. The fence height will be built along the rear and front property lines to provide privacy and security to the applicant's property. This is not contrary to the public interest.

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

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

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 5' tall solid wood fence in the front yard and 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 a 5' tall solid wood fence in the front yard and an 8' in the rear to add security and protection for the subject property. Therefore, the requested special exception will not weaken the general purpose of the district.

Second: Mr. Manna

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

Opposed: Cruz, Martinez

Recused: Neff

Motion Failed

Mr. Neff returned to the meeting prior to Item # 2 at 1:35pm and Mr. Oroian recused himself for case #2 & #3.

Item # 2 **(Continuance from 6/17/19) 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 11 notices were mailed to property owners within 200 feet, 0 returned in favor, and 3 returned in opposition and no registered neighborhood association.

Stephanie Phillips, Office of Historic Preservation, gave a presentation explaining OHP's decision.

Grant Garbo, 314 W. Summit, gave a presentation regarding his need for parking and answered the Boards questions.

David Vogel, spoke of the windows on the property and answered the boards questions.

The Following Citizens appeared to speak

James Thurwalker, 905 W. Huisache, spoke in opposition
Yvonne Thurwalker, 905 W. Huisache, spoke in opposition

Pat Eisenhauer, 520 E. Huisache, spoke in opposition
Paul Kinnison, W. French Place, spoke for 6 minutes
Paula Bondurant, 208 W. Craig Place, spoke in opposition
Ester Contreras, 51 E. Huisache, spoke in opposition
Felipe Sandoval, 510 E. Mulberry, spoke in opposition
Ester Contreras, 51 E. Huisache, spoke in opposition
Jeanne Dalton, gave time to Tony Garcia
Joe Pendone, spoke in favor
Tony Garcia, 243 E. Huisache, spoke for 6 minutes in opposition
David Leal, 330 W. Huisache, spoke in opposition
Will Ellis, 106 Canyon Oaks Dr, 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-19-10300062**

Motion: Mr. Neff made a motion to approve case **BOA-19-10300062**

Regarding Appeal No **BOA-19-10300062**, a request for an appeal of the Historic Preservation Officer's decision, situated at 527 East Huisache Avenue, applicant being Grant Garbo.

I move that the Board of Adjustment grant the applicant's request for an appeal to the subject properties as described above, because the testimony presented to us, and the facts that we have determined, show that the decision made by the administrative official was flawed in the interpretation of the Code and that the correct interpretation of the property.

Specifically, we find that:

The applicant is correct in asserting that the Office of Historic Preservation incorrectly denied the applicant's request for a Certificate of Appropriateness.

Second: Mr. Rodriguez

In Favor: Trevino

Opposed: Neff, Rodriguez, Manna, Fisher, Cruz, Bragman, Polendo, Martinez

Recused: Oroian

Motion Failed

The Board of Adjustment recessed for a break at 3:11pm and returned at 3:20pm.

Item #3 **(Continuance from 6/17/19) 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 outside the 200' radius and the Tobin Hill Community Association and Monte Vista Neighborhood Association are opposed.

Grant Garbo, 314 W. Summit, spoke regarding the parking issues and his proposal for the property.

The Following Citizens appeared to speak

James Thurwalker, 905 W. Huisache, spoke in opposition
Yvonne Thurwalker, 905 W. Huisache, spoke in opposition
Pat Eisenhauer, 520 E. Huisache, spoke in opposition
Paula Bondurant, 208 W. Craig Place, spoke in opposition
Ester Contreras, 51 E. Huisache, spoke in opposition
Josie De leon, 519 E. Huisache, spoke in opposition
Paul Kinnison, W. French Place, spoke in opposition
Jean Dalhgren, 740 E. Huisache, spoke in opposition
Tony Garcia, 243 E. Huisache, spoke in opposition
Joe Penlon, 2711 Nordeview, spoke in favor
David Leal, 330 E. Huisache, 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.

Chair Martinez asked for a motion for case **BOA-19-10300059**, as presented.

Motion: Mr. Neff made a motion for **BOA-19-10300059** for approval.

Regarding Appeal No **BOA-19-10300059**, a request for 1) variance of the parking requirements related to size and location to allow up to 4 head in parking spaces off of an alley without providing a turnaround, situated at 527 East Huisache Avenue, applicant being Grant Garbo.

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 public interest is represented by providing safe parking and is only seeking to reduce 1 parking space; the applicant does provide 4 parking spaces with 1 parking to be used as drop zone. Additionally, allowing the alley without providing a turnaround will only require vehicle to back park in to into the parking area which is not contrary to the public interest.

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

   Literal enforcement of the ordinance would require that the applicant develops a different type of project which would result in unnecessary financial hardship.

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

   The spirit of the ordinance is the intent of the requirement rather than the strict letter of the law. Allowing 4 parking spaces with 1 parking to be used as drop zone and the use on an alley with no turnaround observes the intent of the ordinance.

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

   The requested variance will not authorize the operation of a use on the subject property other than those specifically authorized in the zoning district.

5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*

   The board finds that the parking adjustment off of an alley without providing a turnaround, as designed does not alter the essential character of the district.

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

   The property is located within an historic district where alleys have been historically used as access, which is a unique circumstance existing on the property.

Second: Manna,

In Favor: Trevino, Fisher, Bragman, Polendo, Martinez

Opposed: Neff, Rodriguez, Manna, Cruz

Recused: Oroian

Motion Failed

Mr. Oroian returned to the meeting at 4:06pm

Item # 4 **BOA-19-10300069** A request by Skyhawk424 8th Street for a 1) special exception to allow an 8' fence along the front yard, side yard and rear yard property lines, 2) a variance from the Clear Vision standards to allow a fence to be within the Clear Vision field, and 3) special exception to allow 3 additional short term rental (Type 2) units, located at 424 8th 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 15 notices were mailed to property owners within 200 feet, 8 returned in favor, and 0 returned in opposition, 1 returned in opposition outside the 200' radius and no response from the Downtown Residents Neighborhood Association.

Kevin Collins, City of San Antonio Engineer, clarified the Board of Adjustments questions.

Caroline McDonald, Brown & Ortiz, gave a presentation regarding their property and stated the neighborhood is in the audience for support. She spoke about clear vision and parking regarding the STR and asked the Board for approval.

Tanner Montgomery, Applicant, spoke of the parking, clear vision and the need of the 8 foot fence for privacy and security.

The Following Citizens appeared to speak

Florencio Moreno, 502 8th 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.

Chair Martinez asked for a motion for case **BOA-19-10300069**, as presented.

Motion: Mr. Oroian made a motion for **BOA-19-10300069** for approval.

Regarding Appeal No **BOA-19-10300069**, A request for 1) a special exception to allow an **6**' fence along the side yard and rear yard property lines and up to 5ft front yard parallel situated at 424 8th Street, applicant being Skyhawk424 8th Street.

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' **tall solid screen fence in the side yard and rear yard and predominately open in the front yard and is in harmony with the spirit of the chapter.**

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

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

C. The neighboring property will not be substantially injured by such proposed use.
No adjacent property owners, nor the traveling public, will be harmed by the proposed fence heights.

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 fence will create enhanced privacy and security for the 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 "FBZD T4-2AHOD" Form Based Zone Transect 4 Calibrated (T4-2) Airport Hazard Overlay District and permits the current use of a single-family home. The requested special exception will not weaken the general purpose of the district.

Second: Cruz

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

Opposed: None

Motion Granted

Chair Martinez asked for a **motion** for case **BOA-19-10300069**, as presented.

Motion: Ms. Cruz made a **motion** for **BOA-19-10300069** for approval of the Special Exception.

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.

Regarding Appeal No **BOA-19-10300069** a request for a variance from the Clear Vision standards to allow a fence to be within the Clear Vision field situated at 424 8th Street, applicant being Skyhawk424 8th Street.

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

Specifically, we find that:

1. The variance is not contrary to the public interest.

The public interest is defined as the general health, safety, and welfare of the public. In this case, the fence was built with wrought iron and solid wood not imposing harm to the public and the fence is also, in harmony with the Clear Vision field which does not negatively impact any surrounding properties or the general public. The Board finds that the variance request is contrary to the public interest.

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

Allowing the applicant to keep the 8' fence 10' encroaching into the Clear Vision field will not harm the public right of way. 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 10' encroaching into the Clear Vision field will not substantially injure the neighboring properties as the adjacent commercial property does not have an active driveway near the subject property.

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 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 fence design does not detract from the character of the community. The applicant updated an older 6' private fence with an 8' privacy fence encroaching into the Clear Vision field.

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 property is located one lot from a dead end street, minimizing any impact from traffic.

Second: Manna

In Favor: Cruz, Manna, Oroian, Neff, Rodriguez, Trevino, Fisher, Bragman, Polendo, 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.

Chair Martinez asked for a motion for case **BOA-19-10300069**, as presented for the Short Term Rental.

Motion: Mr. Rodriguez made a motion for **BOA-19-10300069** for approval.

Regarding Appeal No **BOA-19-10300069**, a request for a special exception to allow 3 additional short term rental (Type 2) units, situated at 424 8th Street, applicant being Skyhawk424 8th Street.

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 not materially endanger the public health or safety.

The request to operate the three additional short term rentals is unlikely to materially endanger the public health, safety, or welfare. The property appears to be well kept, and nothing about the quadruplex places it out of character with one more residential use in the immediate vicinity. The current zoning of the property exempts the property from meeting minimum parking standards. This area has a combination of mostly commercial and industrial uses. There is no record of previous Code Enforcement issues in this property.

B. The special exception does not create a public nuisance.

The operation of these short term rentals is not likely to cause a public nuisance. There is no record of previous Code Enforcement activities on this property.

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

The requested special exception is not likely to negatively impact adjacent property owners because the homes are in character with those around it. It has been noted that nothing visible from the street that would indicate the presence of a short term rental.

D. Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary faculties have been or are being provided.

During field visits to the site, staff noted that the structure already exists with adequate utilities. Further, nothing stood out as a cause of increased flooding issues.

E. The applicant or owner for the special exception does not have any previously revoked short term rental licenses, confirmed citations, or adjudicated offenses convictions for violations of Chapter 16, Article XXII of the City Code within one year prior to the date of the application.

The applicant is seeking their first permit for the operation of a total of four (4) Type-2 short term rentals for this property. The applicant is seeking their first permit for the operation of three Type-2 short term rentals. As such, no previous permit has been revoked.

F. 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 requested special exception is not likely to alter the essential character of the district as the property is still used, primarily, as a residence. A unique situation is that this property is at a dead end next to Interstate Highway 37, mostly surrounded by commercial and industrial uses.

Second: Bragman

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

Opposed: Neff

Motion Granted

Item # 5 **BOA-19-10300061** A request by Jen Politano for a parking adjustment to increase the maximum parking from 19 parking spaces to 29 parking spaces located at 1015 Culebra Road. Staff recommends Approval. (Council District 1) (Mercedes Rivas, Planner, (210) 207-0215, Mercedes.Rivas2@sanantonio.gov, Development Services Department)

Staff stated 23 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition, 1 outside the 200' radius in opposition and no response from the West End Hope in Action Neighborhood Association.

Jen Politano, 1015 Culebra Road, gave a brief presentation of her project and asked the Board for their approval.

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 19-10300061,** as presented.

Motion: Mr. Oroian made a motion to approve item **BOA 19-10300061**

Regarding Appeal No **BOA 19-10300061,** a request for a parking adjustment to allow an O'Reilly Auto Parts store to have up to 29 parking spaces, situated at 1015 Culebra Road, applicant being Jen Politano.

I move that the Board of Adjustment grant the applicant's request for the parking adjustment 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:

The proposed use of an O'Reilly Auto Parts store requires more parking than the code allows and the public will be well served by allowing the use of additional parking spaces.

Second: Mr. Neff

In Favor: Oroian, Neff, Polendo, Cruz, Teel, Trevino, Manna, Britton, Fisher, Bragman, Martinez

Opposed: None

Motion Granted

The Board of Adjustment recessed at 5:15 and reconvened at 5:25pm

Item # 6 **BOA-19-10300064** A request by Jen Politano for a parking adjustment to increase the maximum parking from 19 parking spaces to 30 parking spaces located at 7707 Culebra Road. Staff recommends Approval. (Council District 6) (Mercedes Rivas, Planner, (210) 207-0215, Mercedes.Rivas2@sanantonio.gov, Development Services Department)

Staff stated 17 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition and no response from the Pipers Meadow Neighborhood Association.

Jen Politano, 7707 Culebra, gave a brief presentation of her project and asked the Board for approval.

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 19-10300064,** as presented.

Motion: Ms. Cruz made a motion to approve item **BOA 19-10300064**

Regarding Appeal No **BOA 19-10300064**, a request for a parking adjustment to allow an O'Reilly Auto Parts store to have up to 30 parking spaces, situated at 7707 Culebra Road, applicant being Jen Politano.

I move that the Board of Adjustment grant the applicant's request for the parking adjustment 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:

The proposed use of an O'Reilly Auto Parts store requires more parking than the code allows and the public will be well served by allowing the use of additional parking spaces.

Second: Mr. Rodriguez

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

Opposed: None

Motion Granted

Item # 7 **BOA-19-10300063** A request by Stephen Burton for 1) a 3'11" variance from the Clear Vision standards to allow a fence to be within the Clear Vision field, 2) a variance from the restriction of corrugated metal as a fencing material to allow for its use as fencing, and 3) special exception to allow up to an 8' fence along the front and side property lines, located at 220 Helena Street. Staff recommends Denial with an Alternate Recommendation. (Council District 5) (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, 3 returned in favor, and 0 returned in opposition and no response from the Lone Star Neighborhood Association.

Stephen Burton, 220 Helena St, apologized to the Board building the fence prior to seeking permits. He stated the fence is needed 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.

Motion

Chair Martinez asked for a motion for item **BOA-19-10300063**, as presented.

Motion: Mr. Neff made a motion to approve item **BOA-19-10300063** clear vision.

Regarding Appeal No **BOA-19-10300063**, a request for 1) a 1'1" variance from the Clear Vision standards to allow a fence to be within the Clear Vision field, 2) a variance from the restriction of corrugated metal as a fencing material to allow for its use as fencing, situated at 220 Helena Street, applicant being Stephen Burton.

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. Removal of a panel will result in a 13'11" clear vision field and could meet the general safety of the public.

   Additionally, the fence was built with solid wood framing the corrugated metal. The fence enhances aesthetics towards public view and meets the permitted fence height. If granted, this request would be harmony with the spirit and purpose of the ordinance.

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

   The corrugated metal fence has already been constructed. Removal of a panel will result in a 13'11" clear vision field and could meet the general safety of the public. Therefore, the public welfare and convenience will be substantially served.

   Allowing the applicant to keep the 8' 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.*

   Removal of a panel will result in a 13'11" clear vision field and could meet the spirit of the ordinance.

   Granting the variance will not substantially injure the neighboring properties as the fence will enhance safety and privacy for the subject property and is highly unlikely to injure adjacent properties.

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

   The variance will not authorize the operation of a use other than those uses specifically authorized in the zoning district.

5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*

   Removal of a panel will result in a 13'11" clear vision field and would not injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.

The 8' corrugated metal fence contributes to the character of the community. The fence will not impose any immediate threat to adjacent properties.

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

The unique circumstance in this case is that the new fence was built with a combination of fence materials not exposing the corrugated metal. It is difficult to establish how the request could harm adjacent owners or detract from the character of the community.

Second: Mr. Rodriguez

Mr. Oroian made a **friendly motion** to remove corrugated metal passed the front plain of the home.

Second: Mr. Rodriguez accepted the **friendly motion**

In Favor: Neff, Rodriguez, Polendo, Manna, Fisher, Cruz, Bragman,

Opposed: Oroian, Trevino, Martinez

Motion Failed

Mr. Oroian made a motion to **reconsider case BOA-19-10300063**

Second: Mr. Rodriguez

A voice vote was taken and passed unanimously to reconsider item.

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 **second motion** for item **BOA-19-10300063** for clear vision

Motion: Oroian

Regarding Appeal No BOA-19-10300063, a request for 2) a variance from the restriction of corrugated metal as a fencing material to allow for its use as fencing, **situated solely behind the front plain of the home and side rear** at 220 Helena Street, applicant being Stephen Burton.

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. Removal of a panel will result in a 13'11" clear vision field and could meet the general safety of the public.

   Additionally, the fence was built with solid wood framing the corrugated metal. The fence enhances aesthetics towards the rear of the home and side and meets the permitted fence height. If granted, this request would be harmony with the spirit and purpose of the ordinance.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
   The corrugated metal fence has already been constructed behind the front plain and side of the home. Allowing the applicant to keep the 6' corrugated metal fence will help create a safe and private environment while enhancing aesthetics. Therefore, the public welfare and convenience will be substantially served. Therefore, the public welfare and convenience will be substantially served.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*
   Granting the variance will not substantially injure the neighboring properties as the fence will enhance safety and privacy for the subject property and is highly unlikely to injure adjacent properties.

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

5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*
   The 6' corrugated metal fence contributes to the character of the community. The fence will not impose any immediate threat to adjacent properties.

6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.*
   The unique circumstance in this case is that the new fence was built with a combination of fence materials not exposing the corrugated metal. It is difficult to establish how the request could harm adjacent owners or detract from the character of the community.

Second: Trevino

In Favor: Oroian, Trevino, Neff (reluctantly), Rodriguez, Polendo, Manna, Fisher, Cruz, Bragman, 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.

Chair Martinez asked for a Third **motion** for item **BOA-19-10300063** for the special Exception

Motion: Neff

Regarding Appeal No **BOA-19-10300063**, a request for 3) a special exception for to allow **a front gate to be** up to an 8' fence along the front property lines, situated at 220 Helena Street, applicant being Stephen Burton.

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 height is intended with the design style intended by the applicant. If granted, this request would be in harmony with the spirit and purpose of the ordinance.

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

In this case, these criteria are represented by maximum fence heights to protect residential property owners while still promoting a sense of community. The fence height along the front lines to provide a more secure and will not inconvenience the public welfare. This is not contrary to the public interest.

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

No adjacent property owner, nor the traveling public, will be harmed by the fence at its 8ft peak.

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' tall gate peak fence along the front property lines would not significantly alter the overall appearance of the intended aesthetic by 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' tall peak in the front in order to meet the overall design by the resident. Therefore, the requested special exception will not weaken the general purpose of the district.

Second: Oroian

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

Opposed: None

Motion Granted

Item #8 **BOA-19-10300078** A request for a 6'6" variance from the 10' front setback requirement, to allow for a structure to be 3'6" from the front property line, located at 807 Colita Street. Staff recommends Approval. (Council District 2) Debora Gonzalez, Senior Planner (210) 207- 3074, debora.gonzalez@sanantonio.gov, Development Services Department)

Staff stated 22 notices were mailed to property owners within 200 feet, 0 returned in favor, and 2 returned in opposition and no response from the Government Hill Alliance Neighborhood Association.

Rob Killen, Kaufman and Killen, gave a short presentation and explained in detail the need for the variance. Mr. Killen answered the Boards questions and asked for approval.

The Following Citizens appeared to speak.

Denise Homer, 821 Mason, spoke in opposition
Chuck Massey, 1321 Muncey, spoke in opposition
Cindy Tower, 614 Carson, spoke in opposition
Mary Briscoe Cushman, 807 Colita, spoke in opposition
Rosa Hill, 906 Mason, spoke in favor
Eva Ricondo, 4121 Pierce, 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 19-10300078**, as presented.

Motion: Mr. Oroian made a motion for approval on case **BOA 19-10300078**

Regarding Appeal No **BOA-19-10300078,** a request for a 6'6" variance from the 10' front setback requirement to allow for a structure to be 3'6" from the front property line, situated at 807 Colita Street, applicant being Pegy Brimhall, Figurd LLC.

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 setbacks that maintain neighborhood character. The 3'6" front setback is not contrary to public interest as it does not negatively impact any surrounding properties or the general public.

2. Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.
If enforced, the ordinance would significantly increase the physical hardship for the property owner. HDRC and the Office of Historic Preservation recommend the setback as that is the character of the district.

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 code is to establish a cohesive theme. The request to reduce the front setback observes the intent of the code as the property complies with other requirements in neighborhood design.

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

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

The unique circumstance existing here is not the fault of the owner of the property, nor is it due to, or the result of, general conditions in the community in which it is located.

Second: Mr. Neff

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

Opposed: None

Motion Granted

Approval of Minutes

Item # 9 Consideration and Approval on the Minutes from July 1, 2019.

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

Motion Granted

Director's Report: None

Adjournment

There being no further business, the meeting was adjourned at 7:38 p.m.

APPROVED BY: Rose J Martinez OR _____

Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: July 18, 19

Executive Secretary