

City of San Antonio



Draft

Board of Adjustment Minutes

Development and Business Services
Center
1901 South Alamo

August 5, 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 | Vacant | Arlene B. Fisher | Eugene A. Polendo |
Vacant | Vacant

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

- Roll Call
- **Present: Rodriguez, Neff, Britton, Dr. Zottarelli, Bragman, Cruz, Teel, Manna, Oroian, Bragman, Martinez**
- **Absent: Malone**

Gabriela Barba and Maria E. Murray, SeproTec translators were present.

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

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

Pledge of Allegiance

Item # 1 **(Continued from 07/15/19) BOA 19-10300079:** A request by Melinda DeLaFuente for a 4'11" variance from the 5' side setback requirement to allow a carport to be 1" away from the side property line, located at 7122 Woodgate Drive. Staff recommends Denial with an Alternate Recommendation. (Council District 6) (Mercedes Rivas, Planner, (210) 207-0215, Mercedes.Rivas2@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 Meadow Village Neighborhood Association.

Ms. Cruz, entered the Board of Adjustment Meeting at 1:12pm

Melinda De La Fuente, 7122, Woodgate Drive, stated her father is a disabled veteran and the variance and addition is necessary for protection from the weather for her Father.

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-19-10300079, as presented.

Mr. Oroian made a **motion** for BOA-19-10300079 as amended.

Regarding Request No BOA-19-10300079, I move that the Board of Adjustment grant a request for a 2' variance from the 5' side setback requirement to allow for a carport to be 3' from the side property line, situated at 7122 Woodgate Drive, applicant being Melinda DeLaFuente, 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.

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

The 3' setback from the side property lines would limit potential hardships on adjoining property owners.

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

The 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 Board finds that 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 finds that the carport placement with a 3' setback from the side property line would alleviate concerns of storm water runoff, fire spread, and maintenance of the structure.

Second: Mr. Teel

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

Opposed: None

Motion Granted

- Item # 2** **BOA-19-10300085:** A request by Neesa Broussard for a 7' variance from the 15' rear setback requirement to allow an attached patio cover to remain 8' from the rear property line, located at 271 Red Hawk Ridge. Staff recommends Approval. (Council District 9) (Mercedes Rivas, Senior Planner, (210) 207-0215, Mercedes.Rivas2@sanantonio.gov, Development Services Department)

Staff stated 21 notices were mailed to property owners within 200 feet, 1 returned in favor, and 0 returned in opposition and no registered neighborhood association.

Neesa Broussard, 271 Red Hawk Ridge, stated she hired a contractor who did not pull any permits. The property has an odd shape, which cause the sun to shine directly on the porch and cannot enjoy it.

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-19-10300085, as presented.

Motion: Ms. Bragman made a motion for BOA-19-10300085

Regarding Request No BOA-19-10300085, I move that the Board of Adjustment grant a 7' variance from the 15' rear setback requirement to allow for an existing attached patio cover to be 8' away from the rear property line, situated at 271 Red Hawk Ridge, applicant being Neesa Broussard, 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 attached patio will be on top of an existing concrete slab in the rear of the yard. The attached patio 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 construct an attached patio in the rear of the 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 this case is that the lot is on a cul-de-sac and is oddly shaped. Further, this setback issue is not merely financial in nature as the lot is shaped oddly and on a cul-de-sac.

Second: Mr. Oroian

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

Opposed: Oroian

Motion Granted

The Board of Adjustment recessed for a break at 1:49pm and reconvened at 1:55pm

Item #3

BOA-19-10300087: A request by Armando E. Quiñones for a 1'6" variance from the 5' side setback to allow a home to be 3'6" from both side property lines, located at 210 Holland Avenue. Staff recommends Denial. (Council District 1) (Mercedes Rivas, Senior Planner, (210) 207-0215, Mercedes.Rivas2@sanantonio.gov, Development Services Department)

Staff stated 27 notices were mailed to property owners within 200 feet, 0 returned in favor, and 5 returned in opposition and no response from the Monte Vista Neighborhood Association.

Michael Angelo Carmena, 1049 Shook, stated they variance is needed to complete the project and will be complying with UDC. Mr. Carmena gave examples of other homes in the neighbor similar to his request.

The Following Citizens appeared to speak

Mary Johnson, 125 W. Ridgewood, HOA President, spoke in support
Edwina Scinta, 113 E. Norwood Ct, spoke in favor
Harlan Kraft, 226 Melrose Place, spoke in support

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-19-10300087, as presented.

Motion: Mr. Rodriguez made a **motion** for BOA-19-10300087 for approval.

Regarding Request No BOA-19-10300087, I move that the Board of Adjustment grant a request for a 1'6" variance from the 5' side setback to allow a home to be 3'6" from both side property lines, situated at 210 Holland Avenue, applicant being Armando E. Quiñones, 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 3'6" setback from both side property lines 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 3'6" setback from both side property lines would limit potential hardships on adjoining property owners.

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

The 3'6" setback from both side property lines 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 3'6" setback from both side property lines 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 finds that the carport placement with a 3'6" setback from both side property lines would alleviate concerns of storm water runoff, fire spread, and maintenance of the structure.

Second: Dr. Zottarelli

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

Opposed: None

Motion Granted

Item # 4 **BOA-19-10300086:** A request by Rufino Hernandez for an appeal of the Historic Preservation Officer's decision to deny a Certificate of Appropriateness, located at 2218 West Magnolia Avenue. Staff recommends Denial. (Council District 7) (Huy Pham, Historic Preservation Specialist, Office of Historic Preservation, (210) 207-5464) (Debora Gonzalez, Senior Planner (210) 207- 3074, debora.gonzalez@sanantonio.gov, Development Services Department)

Staff stated 28 notices were mailed to property owners within 200 feet, 6 returned in favor, and 0 returned in opposition and no response from the Monticello Park Neighborhood Association.

Office of Historic Preservation, Edward Hall and Huy Pham, 1901 S. Alamo, gave a detailed overview regarding the case history. Staff is available for questions.

Rufino Hernandez, 2218 W. Magnolia, stated he was unaware of rules and regulations prior to beginning the project. He submitted photos of improvements made to the home and spoke of their support for his project. The addition was constructed for his disabled grandson.

The Following Citizens appeared to speak

Carlos De La Rosa, 2215 W. Magnolia, spoke in support
John Dean, 2210 W. Magnolia, spoke in support

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-19-10300086, as presented.

Motion: Mr. Manna made a **motion** for BOA-19-10300086 for approval.

Regarding Appeal No BOA-19-10300086, I move that the Board of Adjustment grant a request for an appeal of the Historic Preservation Officer's decision, situated at 2218 West Magnolia Avenue, applicant being Rufino Hernandez, 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.

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: Oroian

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

Opposed: Neff

Motion Granted

Item # 5 **BOA-19-10300084:** A request by Joe Salinas for an appeal of the Director's decision to issue a building permit for a detached accessory with an accessory dwelling unit, located at 225 East Mistletoe. Staff recommends Denial. (Council District 7) (Crystal Gonzales, Development Services Engineer; Debora Gonzalez, Senior Planner (210) 207- 3074, Debora.gonzalez@sanantonio.gov, Development Services Department)

Staff stated 31 notices were mailed to property owners within 200 feet, after a map correction noted by staff 6 returned in opposition (2 are located outside of the 200' Radius), and 13 returned in favor (9 are located outside the 200' radius) and the Tobin Hill Community Association is in support and the Beacon Hill Area Neighborhood Association is in support of the appeal.

Crystal Gonzalez, DSD Engineer, gave a detailed presentation regarding 225 E. Mistletoe and the City's position regarding this case and answered all the Boards questions.

Joe Salinas, 111 Home Ave, gave a detailed a presentation regarding the project and answered questions presented to them by the Board of Adjustment.

The Following Citizens appeared to speak.

Vance Meade, 225 E. Mistletoe, spoke in favor
Ben Fairbank, 208 E. Magnolia, spoke in favor
Rachel O'Hearn Tobin Hill Zoning Committee read a statement in favor
Lynn Knapik, 312 Pearl Pkwy #2y, spoke in favor
P. Scott Alvarado, 110 Home Ave. SA TX, spoke in favor
Paula Starnes, 219 E. Magnolia, spoke in favor
Annisa Schell, 530 E. Mistletoe, Tobin Hill Community Association
Cynthia Spielman, 900 W. Woodlawn, spoke in favor
David Honkala, 656 Shart Wood Lane, spoke in opposition
Marilyn Courchesne, 431 E. Mistletoe, signed in favor, not present
Lina Hernandez, 418 E. Mistletoe, signed in favor, not present
Mary Johnson, 125 W. Ridgewood, signed in favor, not present

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 19-10300084, as presented.

Motion: Mr. Oroian made a motion to approve item BOA 19-10300084

Second: Mr. Teel

In Favor: Manna, Britton, Neff, Martinez

Opposed: Oroian, Teel, Bragman, Dr. Zottarelli, Cruz, Rodriguez, Fisher

Motion Failed

Approval of Minutes

Item # 6 Consideration and Approval on the Minutes from August 5, 2019.

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

In Favor: Unanimous

Opposed: None

Motion Granted

Director's Report: None

Adjournment

There being no further business, the meeting was adjourned at 5:18 p.m.

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary

DRAFT