

City of San Antonio



Draft

Board of Adjustment Minutes

Development and Business Services
Center
1901 South Alamo

August 19, 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, Fisher, (Rodriguez in at 1:43 pm)
- 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 **BOA-19-10300090:** A request by John Grable for a 3'6" variance from the 5' rear yard setback requirement to allow a detached carport to be 1'6" from the rear property line, located at 7809 Broadway. Staff recommends Approval. (Council District 10) (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, 1 returned in favor, and 0 returned in opposition and no response from the Oak-Park Northwood Neighborhood Association.

John Grable, 7809 Broadway Avenue

The following Citizens appeared to speak

Jean Bren, spoke in support

Crystal Sepulveda, 222 Austin Hwy, spoke in support

Matthew Martinez, 222 Austin Hwy, spoke in support

Javier Alanzo, 222 Austin Hwy, spoke in support

Dan Eason, 7801 Broadway, 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.

Motion: Chair Martinez asked for a motion for item BOA-19-10300090, as presented.

Mr. Teel made a **motion** for BOA-19-10300090 for approval.

Regarding Appeal No BOA-19-10300090, I move that the Board of Adjustment grant a 3'6" variance from the 5' rear setback to allow a carport to be 1'6" away from the rear property line, situated at 7809 Broadway, applicant being John Grable, 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 variance is not contrary to the public interest. The original carport has been in the same location since 1995 with no registered complaints and the new carport is within the original footprint.

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

The new carport is built within the same footprint as the original carport that was damaged beyond repair due to inclement weather in 2016. Literal enforcement of the ordinance would result in the applicant removing that portion of the carport that extends beyond the rear setback, leaving the carport unusable in its current format due to space limitations.

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 new carport is not overwhelming in size and follows the same footprint as the original carport that was built prior to 1995 with no registered complaints. Additionally, the carport is built entirely of metal.

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 carport is not noticeably out of character within the district in which it is located. The previous carport had been in place for over 20 years with no complaints. The district is characterized by commercial, multi-family and single-family dwellings. The variance requested will not substantially injure the appropriate uses of adjacent conforming properties or alter the 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 variance being sought is due the reconstruction of a carport that was destroyed during tornado strikes in 2016. The new carport follows the same footprint as the previous and is made entirely of metal. The unique circumstances were not created by the owner and are not merely financial in nature, and are not due to or the result of general conditions in the district.

Second: Mr. Oroian

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

Opposed: None

Motion Granted

Item # 2 **BOA-19-10300093:** A request by Marina Villagran for a 2' variance from the 3' side yard setback requirement to allow a detached shed to be 1' from the side yard property line, located at 5410 King Richard. Staff recommends Approval (Council District 7) (Debora Gonzalez, Senior Planner (210) 207- 3074, debora.gonzalez@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.

Marina Villagran, 5410 King Richard, Cathy Puente spoke for Ms. Villagran, 5410 King Richard

The following Citizens appeared to speak

Marty Gunter, 5402 King Richard, spoke in opposition

Richard Brawning, 5402 King Richard, spoke in opposition

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

Motion: Chair Martinez asked for a motion for item BOA-19-10300093, as presented.

Motion: Mr. Manna made a motion for BOA-19-10300093

Regarding Appeal No BOA-19-10300093, I move that the Board of Adjustment grant a 1' variance from the 3' side setback to allow a shed to be 2' from the side property line, situated at 5410 King Richard, applicant being Marina Villagran, 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 variance is not contrary to the public interest as the shed does not negatively impact any surrounding properties or the general public. The shed is surrounded by large matures and is not noticeable to the passersby until entering into the applicant's property.

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

Strict enforcement would result in the removal of the structure. As the shed is built between large mature trees and an adjacent property fence line coupled with the shed, moving it west of the adjacent property line could potentially involve removing a large mature tree.

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

The spirit of the ordinance is the intent of the requirement rather than the strict letter of the law. The shed is not overwhelming in size compared to the principal structure and is hidden from right-of-way view due to the large mature tree and a 6' fence.

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 variance to the shed is unlikely to injure the appropriate use of adjacent conforming properties. The shed is located behind a 6' privacy fence and bounded by large mature trees that obscure view from the right-of-way.

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 the shed located behind a 6' privacy fence and bounded by large mature trees that obscure view from the right-of-way.

Second: Mr. Rodriguez

Ms. Bragman made an **amendment** to support staff's original language.

Second: Dr. Zottarelli

Mr. Martinez asked for a roll call vote on Ms. Bragman's **amendment**.

In Favor: Bragman, Dr. Zottarelli, Britton, Neff, Martinez

Opposed: Teel, Cruz, Oroian, Rodriguez, Manna, Fisher

Motion Failed for amendment

Mr. Martinez asked for a vote on Mr. Manna's **motion**

In Favor: Manna, Teel, Dr. Zottarelli, Cruz, Oroian, Fisher

Opposed: Rodriguez, Bragman, Britton, Neff, Martinez

Mr. Neff made a motion to reconsider case **BOA-19-10300093**

Second Ms. Bragman

In Favor: Neff, Bragman, Dr. Zottarelli, Britton, Manna, Martinez

Opposed: Teel, Cruz, Oroian, Rodriguez, Fisher

Motion to reconsider granted

Mr. Neff made an **amendment** for case **BOA-19-10300093**

Regarding Appeal No BOA-19-10300093, I move that the Board of Adjustment grant a **1’11”** variance from the 3’ side setback to allow a shed to be **13”** from the side property line, situated at 5410 King Richard, applicant being Marina Villagran, 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.

Second: Bragman

In Favor: Neff, Bragman, Teel, Dr. Zottarelli, Britton, Martinez

Opposed: Cruz, Oroian, Rodriguez, Manna, Fisher

Motion Failed

Item #3 Discussion and Resolution adopting revisions to the Board of Adjustment Rules and Procedures

After discussion, the board agreed on amendments to the resolutions and revisions to the Board of Adjustment Rules and Procedures.

Mr. Martinez made a motion for the approval of the revisions to the Board of Adjustment Rules and Procedures, and all members voted in the affirmative.

Approval of Minutes

Item # 4 Consideration and Approval of the Minutes from August 5, 2019

The following citizens appeared to speak

Rick Schell, 430 E. Mistletoe Ave, spoke of case BOA-19-10300084 corrections

Anisa Schell, 430 E. Mistletoe Ave, spoke of case BOA-19-10300084 corrections

Paula Starnes, 219 E. Magnolia, spoke of case BOA-19-10300084 corrections

Chair Martinez **motioned** for approval of the August 5th minutes as corrected and all the Members voted in the affirmative.

Director’s Report: Status of Board Appointments

Adjournment

There being no further business, the meeting was adjourned at 3:05 p.m.

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary

DRAFT