

City of San Antonio



Draft

Board of Adjustment Minutes

Development and Business Services
Center
1901 South Alamo

January 13, 2020

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

Dr. Zottarelli, District 1 | Reba N. Malone, District 3 | George Britton, District 4 | Maria Cruz, District 5
| Seth Teel, District 6 | Phillip Manna, District 7 | Kimberly Bragman, District 9 |
Andrew Ozuna, Mayor

Alternate Members

Cyra M. Trevino | Anne Englert | Arlene B. Fisher | Frank A. Quijano |
Seymour Battle III | Kevin W. Love | Johnathan Delmer

1:02 P.M. - Call to Order, Board Room

- **Roll Call**
- **Present:** Teel, Fisher, Bragman, Cruz, Oroian, Britton, Ozuna, Manna, Love, Martinez, Neff
- **Absent:** Malone, Zottarelli

Jaqueline Payan and Cesar Chavez, 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 entered the Board of Adjustment meeting at 1:05 pm.

Election of Officers

Chair Martinez asked for **Staff** to take nominations for election of Officers. **Staff** asked for nominations for **Pro-Tem**. **Chair Martinez** nominated **Mr. Oroian**. Members voted in the affirmative. **Staff** asked for nominations for **Vice Chair**. **Ms. Cruz** nominated **Mr. Neff**. Members voted in the affirmative. **Staff** asked for nominations for **Chair**. **Mr. Oroian** nominated **Mr. Martinez**. Members voted in the affirmative.

- Item #1** (POSTPONED) **BOA-19-10300156:** A request by Yma Luis for 1) a variance from the restriction of corrugated metal as a fencing material to allow for the use of fencing, and 2) a variance from the Clear Vision standards to allow a fence to be within the Clear Vision field located at 1638 Santa Monica Street.(Council District 8) (Rachel Smith, Planner (210) 207- 5407, rachel.smith@sanantonio.gov, Development Services Department)
- Item # 2** **BOA-19-10300160:** A request by Doroteo E. Pedroza for a special exception to allow a one-operator beauty/barber shop in a single family home, located at 3906 Longridge Drive. Staff recommends Approval. (Council District 7) (Debora Gonzalez, Senior Planner (210) 207- 3074, debora.gonzalez@sanantonio.gov, Development Services Department)

Staff stated 20 notices were mailed to property owners within 200 feet, 2 returned in favor, and 0 returned in opposition. No comment from Sunshine Estates Neighborhood Association.

Doroteo Pedroza, 3906 Longridge Dr. – Requesting a special exception to run his barber shop from home. He needs to be closer to home, to his wife. He is not ready to retire.

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-19-10300160, as presented

Mr. Manna made a **motion** for BOA-19-10300160 for approval

“Regarding Case No. BOA-19-10300160, I move that the Board of Adjustment grant a special exception to allow a one-operator beauty/barber shop in a single family home with limited hours of Tuesday to Saturday from 8:30 a.m. – 3 p.m, by appointment only, situated at 3906 Longridge Drive, applicant being Doroteo E. Pedroza, 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 special exception will be in harmony with the spirit and purpose of the chapter.

The purpose of the review is to ensure that the operation of one-operator beauty/barber shop does not negatively impact the character of the community. The applicant has fulfilled all requirements for a one-operator shop as established in the Unified Development Code. As such, the Board finds that the special exception will be in harmony with the purpose of the chapter.

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

Public welfare and convenience will be served as it will provide a valuable service to the residents of the neighborhood. The applicant has proposed the hours of Tuesday to Saturday from 8:30 a.m. – 3 p.m., by appointment only.

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

The subject property will be primarily used as a single family residence. The beauty/barber shop will occupy only a small portion of the home, as required by the UDC. A neighboring property owner should not have any indication that a portion of the home is being used for this purpose.

4. 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 residence.

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

The primary use of the dwelling remains a single-family home. The granting of this special exception will not weaken the purposes of the residential zoning district.

Second: Ms. Cruz

In Favor: Manna, Cruz, Teel, Fisher, Bragman, Oroian, Britton, Ozuna, Neff, Love, Martinez

Opposed: None

Motion Granted

Item #3

BOA-19-10300163: A request by Pura Zavala for a special exception to allow a four-year renewal for a one-operator beauty/barber shop in a single family home, located at 2031 West Pyron Avenue. Staff recommends Approval. (Council District 5) (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.

Pura Zavala, 2031 West Pyron Ave. – Requesting a special exception to allow the renewal to continue operating her beauty shop from home so her family does not have to drive out in traffic.

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-19-10300163, as presented

Mr. Neff made a **motion** for BOA-19-10300163 for approval

“Regarding Case No. BOA-19-10300163, I move that the Board of Adjustment grant a special exception to allow a four-year renewal for a one-operator beauty/barber shop in a single family home with limited hours

of Tuesday to Saturday from 9 am to 5 pm, by appointment only, situated at 2031 West Pyron Avenue, applicant being Pura Zavala, 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 special exception will be in harmony with the spirit and purpose of the chapter.

The purpose of the review is to ensure that the operation of one-operator beauty/barber shop does not negatively impact the character of the community. The applicant has fulfilled all requirements for a one-operator shop as established in the Unified Development Code. As such, staff finds that the special exception will be in harmony with the purpose of the chapter.

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

Public welfare and convenience will be served as it will provide a valuable service to the residents of the neighborhood. The applicant has proposed the hours of Tuesday to Saturday from 9 am to 5 pm, by appointment only.

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

The subject property will be primarily used as a single family residence. The beauty/barber shop will occupy only a small portion of the home, as required by the UDC. A neighboring property owner should not have any indication that a portion of the home is being used for this purpose.

4. 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 residence.

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

The primary use of the dwelling remains a single-family home. The granting of this special exception will not weaken the purposes of the residential zoning district.”

Second: Ms. Cruz

In Favor: Neff, Cruz, Tell, Fisher, Bragman, Oroian, Britton, Ozuna, Manna, Love, Martinez

Opposed: None

Motion Granted

Item #4 **BOA-19-10300157:** A request by Rudolph Puzon and Carol Kelly for a special exception to allow a fence to be 8' tall along both side yards and the rear property line, located at 15235 Chalet Drive. Staff recommends Approval. (Council District 9) (Rachel Smith, Planner (210) 207- 5407, rachel.smith@sanantonio.gov, Development Services Department)

Staff stated 28 notices were mailed to property owners within 200 feet, 9 returned in favor, and 0 returned in opposition. Beacon Hill Neighborhood Association is in support. No response from North Central Thousand Oaks Neighborhood Association.

Rudolph Puzon and Carol Kelly, 15235 Chalet Drive - Asking for the exception to add lattice to add security and privacy to their home and to their neighbors. They have also received 12 letters from neighbors in favor. Mr. Aguilar, Contractor, was also available for questions.

No Citizens appeared to speak

Motion: Chair Martinez asked for a motion for item BOA-19-10300157, as presented

Ms. Bragman made a **motion** for BOA-19-10300157 for approval

“Regarding Case No. BOA-19-10300157, I move that the Board of Adjustment grant a special exception to allow a fence to be 8' tall along both side yards and rear yard, situated at 15235 Chalet Drive, applicant being Rudolph Puzon and Carol Kelly, 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 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 eight feet. The additional fence height along the side and rear property lines is intended to provide safety and security of the applicant's property. Staff finds this in harmony with the spirit of the chapter.

2. *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. An 8' tall fence in the side and rear yard is not contrary to the public interest.

3. *The neighboring property will not be substantially injured by such proposed use.*
The fence enhances the privacy and security of the subject and is unlikely to injure neighboring properties. A portion of the fence is already 8' tall and has existed this way for years with no complaints.
4. *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 provides a safe environment for the property owner without negatively impacting the character of the neighborhood.
5. *The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district.*
The requested special exception will not weaken the general purpose of the district.”

Second: Mr. Oroian

In Favor: Bragman, Oroian, Teel, Fisher, Cruz, Britton, Ozuna, Neff, Manna, Love, Martinez

Opposed: None

Motion Granted

Item #5

BOA-19-10300161: A request by Roberto Elizondo for an 850 square foot variance from the minimum 4,000 square foot lot size to allow a lot size to be 3,150 square feet, located at 1002 Lamar Street. Staff recommends Approval. (Council District 2) (Rachel Smith, Planner (210) 207- 5407, rachel.smith@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. No comment from Dignowity Hill Neighborhood Association.

Roberto Elizondo & Danny Lara, 1002 Lamar Street – Requesting variance to building one home on the smaller lot.

Citizens appeared to speak

Ruth Mendoza, Property owner at the corner of Lamar & Palmetto. Spoke in opposition of variance. She has concerns with parking along the street.

Motion: Chair Martinez asked for a motion for item BOA-19-10300161, as presented

Mr. Oroian made a **motion** for BOA-19-10300161 for approval

“Regarding Case No. BOA-19-10300161, I move that the Board of Adjustment grant an 850 square foot variance from the minimum 4,000 square foot lot size requirement to allow a lot to be 3,150 square feet, situated at 1002 Lamar Street, applicant being Roberto Elizondo, 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 minimum lot sizes that provide for consistent development within the neighborhood. The “R-4” Residential Single-Family District requires a minimum lot size of 4,000 square feet. The subject property was arbitrarily created with a lot size that is just under the required lot size. The requested variance of the lot size is not contrary to the public interest

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

The literal enforcement of the ordinance would not allow the owner of the property to develop the lot as intended. In order for new construction, the property must be platted or the applicant must have a Certificate of Determination to avoid platting.

The lot appears to meet the requirements for a Certificate of Determination (COD). However, a COD cannot be granted, because the property does not meet the minimum 4,000 square foot lot size requirement, and a single-family dwelling cannot be constructed unless a variance is granted.

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

Granting the request will result in substantial justice, because the proposed development of detached single-family dwellings advances the efforts of the zoning designation. The variance will promote infill development on this lot.

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 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 surrounding single-family dwellings will not be injured by granting the variance, because the lot size will not create incompatible development. The character of the surrounding neighborhood will not be altered and the proposed development will be cohesive with the existing pattern of development within the immediate neighborhood.

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 condition present is that the lot does not meet the required minimum lot size and it was created arbitrarily. A Certificate of Determination cannot be approved unless a variance is granted to allow for a smaller lot size to develop single-family dwelling units.*

Second: Ms. Bragman

In Favor: Oroian, Bragman, Teel, Fisher, Cruz, Britton, Ozuna, Neff, Manna

Opposed: Love, Martinez

Motion Granted

Chair Martinez called for the Board of Adjustment to take a recess at 2:20 pm. The Board resumed at 2:27 pm.

Item #6 **BOA-19-10300147**: A request by Hacam Properties, LLC for a 190 square foot variance from the minimum 6,000 square foot lot size to allow a lot size to be 5,810 square feet, located at 221 Muncey. Staff recommends Approval. (Council District 2) (Debora Gonzalez, Senior Planner (210) 207- 3074, debora.gonzalez@sanantonio.gov, Development Services Department)

Staff stated 25 notices were mailed to property owners within 200 feet, 1 returned in favor, and 0 returned in opposition. No response from Dignowity Hill Northwood Neighborhood Association.

Octavio Viamontes, 221 Muncey. Hacam Properties is excited to add this property to the neighborhood. Requesting variance for 4' set back from the rear to comply with the 6000 square feet.

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-19-1030147, as presented

Mr. Ozuna made a **motion** for BOA-19-10300147 for approval

“Regarding Case No. BOA-19-10300147, I move that the Board of Adjustment grant a 190 square foot variance from the minimum 6,000 square foot lot size to allow a lot size to be 5,810 square feet, situated at 221 Muncey, applicant being Hacam Properties, LLC, 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 minimum lot sizes that provide for consistent development within the neighborhood. The “R-6” Residential Single-Family District is intended for single-family dwelling uses on a minimum lot size of 6,000 square feet. The proposed project of single-family dwelling meets the intention of the zoning district and is not contrary to the public interest.

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

The literal enforcement of the ordinance would not allow the owner of the property to develop the lot as intended. The lot qualifies for a Certificate of Determination (COD) due to the property having an antiquated plat. In order for new construction, the property must be platted, but because the lot qualifies for a COD the applicant will not need to replat the lot.

However, a COD cannot be granted, because the property does not meet the minimum 6,000 square foot lot size requirement, and a single-family dwelling cannot be constructed unless a variance is granted. Additionally, the lot does not qualify as a Non-Conforming Lot of Record.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done. Granting the request will result in substantial justice, because the proposed development of detached single-family dwellings advances the efforts of the zoning designation. The variance will promote infill development on this lot.*
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 by the 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 surrounding single-family dwellings will not be injured by granting the variance, because the lot size will not create incompatible development. The character of the surrounding neighborhood will not be altered and the proposed development will be cohesive with the existing pattern of development within the immediate neighborhood.
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."*

Second: Mr. Neff

In Favor: Ozuna, Neff, Teel, Fisher, Bragman, Cruz, Oroian, Britton, Manna, Love, Martinez

Opposed: None

Motion Granted

Mr. Neff left the Board of Adjustment meeting at 2:40 pm. Ms. Trevino jointed the board at 2:40 pm.

Item #7

BOA-19-10300158: A request by Miguel Morones for a 4'11" variance from the 5' side setback requirement to allow an attached carport to be 1" from the side east property line, located at 578 Lively Drive. Staff recommends Denial with an Alternate Recommendation. (Council District 1) (Rachel Smith, Planner (210) 207- 5407, rachel.smith@sanantonio.gov, Development Services Department)

Staff stated 35 notices were mailed to property owners within 200 feet, 3 returned in favor, and 1 returned in opposition. Dignowity Hill Neighborhood Association in opposition.

Miguel Morones, 578 Lively Dr. Requesting to build a carport to replace his older carport due to damage. The carport will be used to protect his truck from the elements.

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-19-10300158, as presented

Mr. Oroian made a **motion** for BOA-19-10300158 for approval

“Regarding Case No. BOA-19-10300158, I move that the Board of Adjustment grant a 3’ variance from the 5’ side setback requirement to allow an attached carport to be 2’ from the side property line, situated at 578 Lively Drive, applicant being Miguel Morones, 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. The Board supports reducing the side setbacks, which would provide adequate room for maintenance and would provide better separation for fire spread and stormwater runoff.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
A special condition could be the required width needed to fit the vehicle in the applicant could modify the proposed carport to meet the side 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 code is to provide for consistent development and to establish room for maintenance, and to reduce the threat of fire spread. The alternate recommendation addresses these concerns.
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 carport could be modified to meet the required side setback.
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. A unique circumstance could be that the carport posts are already built into the fence.”*

Second: Mr. Teel

In Favor: None

Opposed: Oroian, Teel, Fisher, Bragman, Cruz, Britton, Ozuna, Trevino, Manna, Love, Martinez

Motion Fails

Item #8 **BOA-19-10300164:** A request by Lazar Hausman for 1) a 10.5' variance from the 20' rear setback requirement to allow for a new dwelling unit to be 9.5' from the rear property line, and 2) a 2' variance from the 5' side setback requirement to allow new dwelling unit to be 3' away along the east and west property lines, located at 231 Chicago Boulevard. Staff recommends Approval. (Council District 3) (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, 1 returned in favor, and 1 returned in opposition. No comment from Riverside Neighborhood Association.

Lazar Hausman, 231 Chicago Boulevard – Property owner requesting variance to build new dwelling unit with 9.5' from rear property line to allow for parking. Seeking a variance from the east and west property lines for additional parking in the front for additional parking for residents.

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-19-10300164, as presented

Mr. Teel made a **motion** for BOA-19-10300164 for approval

“Regarding Case No. BOA-19-10300164, I move that the Board of Adjustment grant 1) a 10.5' variance from the 20' rear setback requirement to allow for a new dwelling unit to be 9.5' from the rear property line, and 2) a 2' variance from the 5' side setback requirement to allow new dwelling unit to be 3' away along the east and west property lines, situated at 231 Chicago Boulevard, applicant being Hausman Homebuyers, Inc., 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 variances are not contrary to the public interest as the structure will provide room for maintenance, will not create water runoff on the adjacent property, and will not injure the rights of the adjacent property owners. The proposed structure will be 9.5' from the rear property line and 3' from the both side property lines and no portion of the structure will be in violation of the Clear Vision field.

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

An unnecessary hardship would result from the enforcement of the ordinance as strict enforcement would result in not allowing the owner of the property to build the requested structure as proposed.

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

Substantial justice will be done as the requested setbacks will still provide for a safe development pattern. The requests will 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 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 by the 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 accessory units to be located within the side and rear setbacks established by the current Unified Development Code. The request will not detract from the character of the district. The proposed unit will be in the rear of the property, not affecting the public right-of-way or the clear vision ordinance. Within the time span the original structures had been in place, there has been no observed harm done to adjacent properties. As the new structure will occur away from the adjacent property, it is unlikely the request will injure the adjacent property.

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

The 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 character of the rear and side yards within the district are predominantly compact, leaving little room for proper building setbacks."

Second: Mr. Oroian

In Favor: Teel, Oroian, Fisher, Bragman, Cruz, Britton, Ozuna, Trevino, Manna, Love, Martinez

Opposed: None

Motion Granted

Item #9 **BOA-19-10300159**: A request by Maria H. Ferrier for 1) a 4' variance from the 20' rear setback requirement to allow for an attached addition to be 16' from the rear property line, and 2) a 1'4" variance from the 5' side setback to allow for an attached addition to be 3'9" from the side property line, located at 5526 King Richard Street. Staff recommends Approval. (Council District 7) (Debora Gonzalez, Senior Planner (210) 207- 3074, debora.gonzalez@sanantonio.gov, Development Services Department)

Staff stated 23 notices were mailed to property owners within 200 feet, 8 returned in favor, and 0 returned in opposition. No comment from Cable Westwood Neighborhood Association.

Maria Ferrier & Cynthia Marshall, 5526 King Richard Street – Requesting variance to complete the apartment. The apartment will be used by her grand(son) when he returns home.

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-19-10300159, as presented

Mr. Manna made a **motion** for BOA-19-10300159 for approval

“Regarding Case No. BOA-19-10300159, I move that the Board of Adjustment grant 1) a 4' variance from the 20' rear setback requirement to allow for an attached addition to be 16' from the rear property line, and 2) a 1'4" variance from the 5' side setback to allow for an attached addition to be 3'9" from the side property line, situated at 5526 King Richard Street, applicant being Maria H. Ferrier, 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 attached addition has maintained a 16' rear setback since 2011, with no complaints and is only encroaching 1'9" into the side setback. The attached addition does not interfere with Clear Vision. The owner will still need approval from the utility to encroach into the easement.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
The literal enforcement of the ordinance would require the owner to demolish a large portion of the attached addition.
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*
The granting of the requested variances would be in harmony with the spirit of the ordinance. The intent of the setback requirements is to prevent unnecessary trespass on adjacent property for maintenance, fire safety, and ensure proper storm water management. All of these intents will still be maintained with the granting of this request.

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 by the 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 owner will still need approval from the utility to encroach into the easement.

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

The unique circumstance present in the case is that the property addition does meet the Clear Vision field.”

Second: Ms. Fisher

In Favor: Manna, Fisher, Teel, Bragman, Cruz, Oroian, Britton, Ozuna, Trevino, Love, Martinez

Opposed: None

Motion Granted

Item #11

Consideration and approval of the December 16, 2019 Board of Adjustment Minutes.

Chair Martinez **motioned** for approval of the December 2nd minutes as presented.
Members voted in the affirmative.

Adjournment

There being no further business, the meeting was adjourned at 3:36 p.m.

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary

DRAFT