

City of San Antonio



Draft

Board of Adjustment Minutes

Development and Business Services
Center
1901 South Alamo

May 4, 2020

1:00PM

Videoconference

Board of Adjustment Members

A majority of appointive Members shall constitute a quorum.

Roger F. Martinez, District 10, Chair
Dr. Lisa Zottarelli, District 1, Vice Chair
Donald Oroian, District 8, Pro-Tem

Vacant, District 2 | Andrew Menchaca, 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 | Vacant |
Seymour Battle III | Kevin W. Love | Johnathan Delmer

1:04 P.M. - Call to Order

- **Roll Call**
- **Present:** Zottarelli, Menchaca, Cruz, Teel, Manna, Bragman, Ozuna, Martinez, Delmer, Trevino, Fisher
- **Absent:** Britton, Oroian

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*

Mr. Manna entered the Board of Adjustment meeting at 1:15 pm.

Item #1 **BOA-20-10300034**: A request by Killen, Griffin, & Farrimond, PLLC. for a 20' variance from the maximum sign height of 60' to allow a sign to be 80' tall, generally located at the intersection of Marbach Road and West Loop 1604 North. Staff recommends Approval. (Outside City Limits) (Dominic Silva, Senior Planner (210) 207-0120, Dominic.Silva@sanantonio.gov, Development Services Department)

Staff stated 0 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition.

James Griffin – 100 NE Loop 410, Requesting variance to maximize sign height. The height is needed in order for people to see the sign from the highway and have enough time to exit and get to the location.

The following called in

Coleen Wagaspak – spoke in opposition of variance

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-20-10300034, as presented

Mr. Ozuna made a **motion** for BOA-20-10300034 for approval

“Regarding Case No. BOA-20-10300034, I move that the Board of Adjustment grant a 20' variance from the maximum sign height of 60' to allow a sign to be 80' tall, situated generally at the corner of Marbach Road and West Loop 1604 North, applicant being Killen, Griffin, & Farrimond, PLLC, 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.

Pursuant to Section 28-247 of Chapter 28: Signs and Billboards of the City Code, in order for a variance to be granted, the applicant must demonstrate:

1. *The variance is necessary because strict enforcement of this article prohibits any reasonable opportunity to provide adequate signs on the site, considering the unique features of a site such as its dimensions, landscaping, or topography; or*
2. *Denial of the variance would probably cause a cessation of legitimate, longstanding active commercial use of the property.*

Due to the unique features of the elevated Expressway adjacent to the subject property, the proposed 80' sign is warranted and will conform to existing conditions of the commercial area.

3. *After seeking one or more of the findings set forth in subparagraphs (1) and (2), the Board finds that:*

A. Granting the variance does not provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.

The request is not out of character with the surrounding commercial properties and the sign will not block any existing business, similar height signs within the area, including those at QuickTrip and any future development opportunities.

B. Granting the variance will not have a substantially adverse impact on neighboring properties.

The proposed variance will not have an adverse impact on neighboring properties as surrounding properties have similar signage. Further, due to the nature of the McDonald's minimal sign square footage, will not be a substantially large sign field.

C. Granting the variance will not substantially conflict with the stated purposes of this article.

The requested variance does not conflict with the stated purpose of the chapter. The requested sign height provides reasonable limits on signage to help preserve economic cornerstones. Further, the request will not create traffic hazards by confusing or distracting motorists, or by impairing the driver's ability to see pedestrians, obstacles, or other vehicles, or to read traffic signs."

Second: Mr. Teel

In Favor: Ozuna, Teel, Zottarelli, Delmer, Cruz, Fisher, Bragman, Trevino, Martinez

Opposed: Menchaca, Manna

Motion Granted

- Item # 2** **BOA-20-10300024:** A request by Lake Flato Architects for a request for a 12' variance from the River Improvement Overlay required maximum height of 84' to allow a new commercial building with architectural features to be 96' high, located at 646 South Flores Street. Staff recommends Approval. (Council District 1) (Dominic Silva, Senior Planner (210) 207-0120, dominic.silva@sanantonio.gov, Development Services Department)

Staff stated 31 notices were mailed to property owners within 200 feet, 0 returned in favor, and 5 returned in opposition, 1 being outside the 200 ft.. No response from the King William Neighborhood Association.

Adrianna Swindle, 646 South Flores Street – Spoke of request for variance to allow the maximum height of 84'. The height is needed to allow the new building with architectural features.

Submitted letter

Rene Ruiz, 400 E. Arsenal – in opposition

Alma Hernandez, 103 City Street – in opposition

Fernando Munoz, 306 E. Arsenal – in opposition

Henry Botello, 302 E Arsenal – in opposition

Live public comment

Rene Ruiz – 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-20-10300024, as presented

Mr. Teel made a **motion** for BOA-20-10300024 for approval

“Regarding Case No. BOA-20-10300024, I move that the Board of Adjustment grant a request for a 12’ variance from the River Improvement Overlay required maximum height of 84’ to allow a new commercial building with architectural features to be 96’ high, situated at 646 South Flores Street, applicant being Lake Flato Architects, 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, given the location of the lot, granting the variances still provides adequate accessibility to light, air, and open space.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
A literal enforcement of the ordinance would result in unnecessary hardship due to significantly reducing the amount of developable space within the HEB Arsenal Campus.
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 height limitation within the RIO-4 District is to prevent uneven height and massing in comparison to adjacent properties. Given the location of the proposed project, all intents of this law will be observed if approved.
4. *The variance will not authorize the operation of a use other than those uses specifically authorized 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. Specifically, the variance would not place the structure out of character within the community as well as the HEB Campus.

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. Given the location of the proposed structure within the HEB Campus, HDRC approval, and design characteristics matching the district, the requested variance is in line with the character of the campus.”

Second: Mr. Manna

In Favor: Teel, Manna, Zottarelli, Delmer, Menchaca, Cruz, Fisher, Bragman, Ozuna, Trevino, Martinez

Opposed: None

Motion Granted

Chair Martinez called for the **Board of Adjustment** to take a recess at 2:36 pm. Board resumed at 2:48 pm.

Item #3

BOA-20-10300033: A request by Lori Spahn for a variance from the restriction of panelized steel as a fencing material to allow for its use, located at 1001 Westgate. Staff recommends Approval. (Council District 2) (Justin Malone, Planner (210) 207-0157, Justin.Malone@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 response from the Mahneke Park Neighborhood Association.

Lori Spahn, 1001 Westgate - Request for a variance to utilize panelized steel as fencing material. The material is long lasting and will be visually pleasing.

No Public Comment

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-20-10300033, as presented

Mr. Manna made a **motion** for BOA-20-10300033 for approval

“Regarding Case No. BOA-20-10300033, I move that the Board of Adjustment grant a request for a variance from the restriction of panelized steel as a fencing material to allow for its use as a fencing material, situated at 1001 Westgate Lane, applicant being Lori Spahn, 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 instance, the variance is not contrary to the public interest. The fence is intended to be built with a material that emphasizes safety and security between surrounding properties. The use is consistent with the neighborhood design.

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

Literal enforcement of the ordinance would result in the applicant using a different fencing material to secure their property. This 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.*

Granting the request will result in substantial justice as the requested material will still provide for a safe development pattern.

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 Board finds that fence will adhere to all fencing height restrictions and will be within character within the community. Any impacts of the Clear Vision encroachment will not affect adjacent property owners.

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 on the property are neither due to the general conditions of the district and are not financial in nature. Due to the present lack of security on property and the state of the current neighboring fencing, the Board finds the request to be the result of the surrounding area in which the property is located."

Second: Ms. Fisher

In Favor: Manna, Fisher, Zottarelli, Delmer, Menchaca, Cruz, Teel, Bragman, Ozuna

Opposed: Trevino, Martinez

Motion Granted

Item #4 **BOA-20-10300021**: A request by James Benfield for a request for 1) a 2'3" variance from the required 5' side setback requirement to allow a new residential structure to be 2'9" away from the east property line for Lot 24 and 2) a request for a 3" variance from the required 5' side setback requirement to allow new residential structures to be 4'9" away from the east and west property lines for Lots 25, 26, 27, located at 1962 East Crockett Street. Staff recommends Approval. (Council District 2) (Dominic Silva, Senior Planner (210) 207-0120, dominic.silva@sanantonio.gov, Development Services Department)

Staff stated 36 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition. No response from the Jefferson Heights Neighborhood Association.

James Benfield, 1962 East Crockett Street – Spoke of request for a variance for 5' side setback to build a new residential structure.

No Public Comment

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-20-10300021, as presented

Mr. Ozuna made a **motion** for BOA-20-10300021 for approval.

“Regarding Case No. BOA-20-10300021, I move that the Board of Adjustment grant 1) Lot 24: a 2'3" variance from the required 5' side setback requirement to allow a new residential structure to be 2'9" away from the east property line situated at 1962 East Crockett Street, applicant being James Benfield, 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, given the lot constraints, granting the variances still provides adequate accessibility to light, air, and open space. Further, fire rated material will be required due to the proximity to adjacent structures.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
A literal enforcement of the ordinance would result in unnecessary hardship due to significantly reducing the amount of developable space on each lot. The small lot configurations are the result of antiquated, substandard lot development and will require variances if developing on each lot as intended.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done. The spirit of the ordinance is the intent of the code, rather than the strict letter of the law. The intent of the setback limitation is to prevent fire spread, allow adequate space for maintenance, and encourage proper storm water drainage. All intents of this law will be observed if approved.*
4. *The variance will not authorize the operation of a use other than those uses specifically authorized 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. Specifically, the variance would not place the structure out of character within the community. Further, the residential structure is following a district norm of reduced setbacks for all houses built within the area.
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 reduced lot sizes within the district is uniform, leaving little room for proper building setbacks. This is created by the proliferation of older, outdated substandard lots currently zoned "R-4."

Second: Ms. Bragman

In Favor: Ozuna, Bragman, Zottarelli, Delmer, Menchaca, Cruz, Teel, Manna, Trevino, Fisher, Martinez

Opposed: None

Motion Granted

Item #5

BOA-20-10300029: A request by Blanca DeLeon for a special exception to allow a registration of a one-operator beauty/barbershop within a single-family residence, located at 614 South Polaris Street. Staff recommends Approval. (City Council District 2) (Azadeh Sagheb, Planner (210) 207-5407, Azadeh.Sagheb@sanantonio.gov, Development Services Department)

Staff stated 28 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition. No response from the Denver Heights Neighborhood Association.

Blanca DeLeon, 614 South Polaris Street – Spoke of the request for a special exception to allow registration to run her beauty shop within her residence. The customers will be by appointments.

No public comment

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-20-10300029, as presented

Ms. Cruz made a **motion** for BOA-20-10300029 for approval.

“Regarding Case No. BOA-20-10300029, I move that the Board of Adjustment grant a special exception to allow a new registration of a one-operator beauty shop within a single family residence, with limited hours of Monday through Saturday from 8:30 AM to 6:30 PM, by appointment only, situated at 614 South Polaris Street, applicant being Blanca N. Deleon, 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.*
The applicant has a pending code violation pertaining to obtain the required certification. The granting of this special exception will cause it to be complied and closed by code enforcement. 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 Monday through Saturday from 8:30 AM to 6:30 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, and the fact that a beauty shop is being operated from the home will likely be indiscernible to passersby. As such, neighboring properties will not be substantially injured.
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: Mr. Menchaca

In Favor: Cruz, Menchaca, Zottarelli, Delmer, Teel, Manna, Fisher, Bragman, Ozuna, Trevino, Martinez

Opposed: None

Motion Granted

Item #6 Consideration and approval of the March 2, 2020 Board of Adjustment Minutes.

Motion: Chair Martinez asked for a motion for approval of the March 2, 2020 minutes as presented.

Ms. Cruz made a **motion** for approval of March 2, 2020 minutes.

Second: Dr. Zottarelli

In Favor: Cruz, Zottarelli, Delmer, Menchaca, Teel, Manna, Fisher, Bragman, Ozuna, Trevino, Martinez

Minutes Approved

Mr. Martinez mentioned the next Board of Adjustment meeting on May 18, 2020 meeting will be held by videoconference.

Adjournment

There being no further business, the meeting was adjourned at 3:38 p.m.

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary

DRAFT