

City of San Antonio



Draft

Board of Adjustment Minutes

Development and Business Services
Center
1901 South Alamo

May 18, 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 | Jonathan Delmer

1:03 P.M. - Call to Order

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

2 Translators from SeproTec were present to assist with translating.

**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*

Item #1 **BOA-20-10300037**: A request by Jaci Clemens for a 47.7' variance from the minimum distance requirement of 150' between signs per Chapter 28 to allow a sign to be 102.3' away from the nearest sign, located at 5706 West Loop 1604 North. Staff recommends Approval. (Council District 6) (Kayla Leal, Senior Planner, (210) 207-0197, Kayla.Leal@sanantonio.gov, Development Services Department)

Staff stated 2 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition. No response from the Mountain View Acres Neighborhood Coalition.

JD Keller, 5706 W Loop 1604 N – Spoke of need for variance to remove old sign and replace with a multi-tenant sign.

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-20-10300037, as presented

Mr. Oroian made a **motion** for BOA-20-10300037 for approval

“Regarding Case No. BOA-20-10300037, I move that the Board of Adjustment grant a 47.7' variance from the minimum distance requirement of 150' between signs per Chapter 28 to allow a sign to be 102.3' away from the nearest sign, situated at 5706 West Loop 1604 North, applicant being Jaci Clemens, 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 Chapter 28, as amended, would result in an unnecessary hardship.

Specifically, we find that:

1. *Strict enforcement prohibits any reasonable opportunity to provide adequate signs on the site,*
Staff finds that the placement of the sign on an abutting property is a hardship that causes the applicant to not have many options regarding sign placement. The applicant is proposing to remove the current sign on the subject property and replace with a multi-tenant sign. The proposal will not introduce additional signage to the area and is not contrary to the public interest.
2. *A denial would probably cause a cessation of legitimate, longstanding active commercial use of the property,*
Staff finds a denial would eliminate the applicant's opportunity to replace their signage with a multi-tenant sign which will create a hardship for the additional tenants' commercial use.
- 3A. *Does not provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated;*
The applicant's request does not likely provide a special privilege. The new sign will remain in the same exact location as previously located.

3B. *Will not have a substantially adverse impact upon neighboring properties; and*

The public interest is defined as the general health, safety, and welfare of the public. In this case, the applicant is proposing to place a brand new sign in the same location as the current sign. The proposal will not introduce an additional sign to the signage currently in place and will not substantially adversely impact neighboring properties.

3C. *Not substantially conflict with the stated purposes of Chapter 28.*

The intent of the material limitation is to preserve an appropriate amount of space in between each sign within this master plan area. The request does not disregard the spirit of the ordinance as 102.3 feet will be maintained between signage and will not substantially conflict with the stated purposes of Chapter 28.”

Second: Dr. Zottarelli

In Favor: Oroian, Zotarelli, Trevino, Menchaca, Delmer, Cruz, Teel, Manna, Bragman, Ozuna, Martinez

Opposed: None

Motion Granted

Item # 2 **BOA-20-10300028:** A request by Hiram Garcia Munoz for a 136 square foot variance from the maximum 40% allowance for Accessory Detached Dwelling Units (ADDU) to allow an ADDU to be 550 square feet, located 446 Demya Drive. Staff recommends Approval. (Council District 4) (Kayla Leal, Senior Planner, (210) 207-0197, Kayla.Leal@sanantonio.gov, Development Services Department)

Staff stated 21 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition. No response from the Rainbow Hills Neighborhood Association.

Hiram Garcia, 446 Demya Drive – Spoke of need of variance to build a detached dwelling unit for his aging parents.

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-20-10300028, as presented

Dr. Zottarelli made a **motion** for BOA-20-10300028 for approval

“Regarding Case No. BOA-20-10300028, I move that the Board of Adjustment grant a 136 square foot variance from the maximum 40% allowance for Accessory Detached Dwelling Units (ADDU) to allow an

ADDU to be 550 square feet, situated at 446 Demya Drive, applicant being Hiram Garcia Munoz, 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 applicant is proposing to construct an Accessory Detached Dwelling Unit that will have the same roof slope and pitch as the primary structure.

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

Staff finds that any special conditions, if enforced, would result in an unnecessary hardship. The applicant is limited to a 414 square foot ADDU with literal enforcement of the ordinance and is requesting the variance to allow an additional 136 square feet.

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 defined as the intent of the code, rather than the exact letter of the law. The intent of the ADDU square footage limitation is to limit oversized structures in the rear yard. In this case, the applicant is only requesting an additional 136 square feet, so the spirit of the ordinance will be maintained and observed.

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 requested variance will not permit a use not authorized within the current 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 to increase the square footage limitation does not pose a risk of substantially injuring the use of adjacent properties and does not seem likely to 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 applicant was informed of the limitations incurred by the ordinance and submitted the request for a variance prior to construction. The variance is being sought due to the unique circumstances which are not merely financial and not created by the owner of the property.”

Second: Mr. Delmer

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

Opposed: None

Motion Granted

Item #3 BOA-20-10300035: A request by Michael Whidden for a 1) an 8'8" variance from the rear setback requirement to allow a new residential structure to be 11'4" away from the rear property line, located at 17914 Cantera Court. Staff recommends Approval. (Council District 8) (Azadeh Sagheb, Planner (210) 207-5407, Azadeh.Sagheb@sanantonio.gov, Development Services Department)

Staff stated 4 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition.

Michael Whidden, 17914 Cantera Court – Project Manager for property owner. Variance is needed due to the unique shape of the lot.

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-20-10300035, as presented

Mr. Manna made a **motion** for BOA-20-10300035 for approval

“Regarding Case No. BOA-20-10300035, I move that the Board of Adjustment grant an 8'8" variance from the rear setback requirement to allow a new residential structure to be 11'4" away from the rear property line, situated at 17914 Cantera Court, applicant being Michael Whidden, 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.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
Due to unique size of the lot, certain design features have been added to continue the established drainage plan for this lot as well as the neighborhood. A literal enforcement of the ordinance would result in unnecessary hardship by the resources lost on a total redesign.
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*
With a granted variance on this uniquely sized lot, the spirit of the ordinance will be adhered to just

by the involvement of all parties. This house is designed with considering the intent of the setback limitation 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 requested variance will not permit a use not authorized within the current 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.*

This variance would not substantially injure or alter the use or character of adjacent conforming property or character of the district. The granting of this variance will facilitate a more harmonious flow with the current houses and adjacent properties. The same consideration of house, lot placement, and same style plans is given to all houses to preserve the natural character of the 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 plight of the ownership of the property is that the developer designed the lot size and location and not the owner. The shorter property line on the Southwest side is due to the uniqueness of this neighborhood.”

Second: Ms. Cruz

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

Opposed: None

Motion Granted

Item #4

BOA-20-10300031: A request by Mona L. Mora for a 5' variance from the required 10' front setback to allow a carport to be 5' away from the front property line, located at 443 Mount Vernon Court. Staff recommends Denial. (Council District 3) (Dominic Silva, Senior Planner (210) 207-0120, Dominic.Silva@sanantonio.gov, Development Services Department)

Staff stated 24 notices were mailed to property owners within 200 feet, 0 returned in favor, and 2 returned in opposition, 1 being outside the 200 feet. No response from the Hot Wells Neighborhood Association.

Mona Mora, 443 Mount Vernon St. – Requesting variance to keep her carport as is. She wants to use the existing post for a fence. The carport provides protection for the vehicles.

Submitted response Form

Victor Rodriguez, wrote in opposition

Richard & Delma Rodriguez, wrote 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-20-10300031, as presented

Mr. Ozuna made a **motion** for BOA-20-10300031 for approval.

“Regarding Case No. BOA-20-10300031, I move that the Board of Adjustment grant an 5' variance from the required 10' front setback to allow a carport to be 5' away from the front property line, situated at 443 Mount Vernon Court, applicant being Mona L. Mora, 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, granting the variances still provides adequate accessibility to light, air, and open space while protecting the applicant's vehicles.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
An unnecessary hardship would result from the literal enforcement of the ordinance in that the property owner would need to modify the already constructed carport.
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*
The granting of the requested variance 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.*
The adjacent properties are unlikely to be negatively affected by the requested. The request would not be out of character in 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 unique situation existing on the property is due to the size constraints of the lot itself.”

Second: Mr. Oroian

In Favor: None

Opposed: Ozuna, Oroian, Zottarelli, Trevino, Menchaca, Delmer, Cruz, Teel, Manna, Bragman, Martinez

Motion Fails

Item #5

BOA-20-10300036: A request by Cathy Ann Guzman for 1) a 3'11" variance from the side setback requirement, to allow a carport to be 1'1" away from the side property line and 2) a 3'8" variance from the front setback to allow a carport to be 6'4" away from the front property line, located at 2110 West Hermosa Drive. Staff recommends Denial. (Council District 1) (Dominic Silva, Senior Planner (210) 207-0120, Dominic.Silva@sanantonio.gov, Development Services Department).

Staff stated 37 notices were mailed to property owners within 200 feet, 4 returned in favor, and 0 returned in opposition. No response from the Los Angeles Neighborhood Association.

Cathy Guzman, 2110 West Hermosa St. – Requesting variance to allow for the carport. The carport provides protection from the weather. The children also play under the carport and it protects them from the weather.

Submitted response form

Sandra Porter, wrote in favor 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-20-10300036, as presented

Mr. Teel made a **motion** for BOA-20-10300036 for approval.

“Regarding Case No. BOA-20-10300036, I move that the Board of Adjustment grant a request for 1) a 3'11" variance from the side setback requirement to allow a carport to be 1'1" away from the side property line and 2) a 3'8" variance from the front setback to allow a carport to be 6'4" away from the front property line, situated at 2110 West Hermosa Drive, applicant being Cathy Ann Guzman, 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, granting the variances still provides adequate accessibility to light, air, and open space while protecting the applicant's vehicles.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
An unnecessary hardship would result from the literal enforcement of the ordinance in that the property owner would need to modify the already constructed carport.
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*
The granting of the requested variance 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.*
The adjacent properties are unlikely to be negatively affected by the requested. The request would not be out of character in 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 unique situation existing on the property is due to the size constraints of the lot itself."

Second: Mr. Oroian

In Favor: Teel, Oroian, Zottarelli, Trevino Delmer, Ozuna

Opposed: Menchaca, Cruz, Manna, Bragman, Martinez

Motion Fails

Item #6 Consideration and approval of the May 4, 2020 Board of Adjustment Minutes.

Motion: Chair Martinez asked for a motion for approval of the May 4, 2020 minutes as presented.

Ms. Cruz made a **motion** for approval of May 4, 2020 minutes.

Second: Mr. Manna

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

Mr. Oroian did not vote, was not present for the May 4th meeting.

Minutes Approved

Staff mentioned the June Board of Adjustment meetings will be held by videoconference.

Adjournment

There being no further business, the meeting was adjourned at 2:40 p.m.

DRAFT

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary

DRAFT