

City of San Antonio



Draft

Board of Adjustment Minutes

Development and Business Services

Center

1901 South Alamo

July 20, 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

1:15 P.M. - Call to Order

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

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 **(POSTPONED) BOA-20-10300057:** A request by Mirna Rizo for 1) a 5' variance from the 5' minimum rear setback to allow an attached garage to be 4'7" from the rear property line, and 2) a 1'4" variance from the required 5' side setback to allow the attached garage to be 3'8" away from the side property line, located at 315 Noria. (Council District 5) (Azadeh Sagheb, Planner (210) 207-5407, Azadeh.Sagheb@sanantonio.gov, Development Services Department)_

Item # 2 **BOA-19-10300162:** A request by David Ranjbar for 1) a 5' variance from the 10' Type A landscape bufferyard requirement to allow a bufferyard to be 5' along the south property line, 2) a 5' variance from the 15' Type B landscape bufferyard requirement to allow a bufferyard to be 10' along the north property line, 3) a 5' variance from the 15' Type B landscape bufferyard requirement to allow a bufferyard to be 10' along the west property line, 4) a 10' variance from the 15' Type B landscape bufferyard requirement to allow a bufferyard to be 5' along the east property line, and 5) a 5' variance from the required 10' side setback to allow a structure to be built 5' from the east property line, located at 4674 South Presa. Staff recommends Denial with an Alternate Recommendation. (Council District 3) (Dominic Silva, Senior Planner (210) 207-0120, Dominic.Silva@sanantonio.gov, Development Services Department)

Staff stated 18 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition. The Hotwells Neighborhood Association is in opposition.

David Ranjbar, 4674 South Presa – Spoke of request for variances to demolish and rebuild and have space for parking lot.

Submitted Public Comment

Brady Alexander, President, Hot Wells Mission Reach NA, 1839 E. Payron – In opposition

Mrs. Hernandez, 107 Stratford Ct. – In opposition

Virginia Rutledge, 4710 Presa & 106 Stratford – 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-20-10300162, as presented

Mr. Ozuna made a **motion** for BOA-20-10300162 for approval

“Regarding Case No. BOA-19-10300162, I move that the Board of Adjustment grant a request for 1) a 5' variance from the 10' Type A landscape bufferyard requirement to allow a bufferyard to be 5' along the south property line, 2) a 5' variance from the 15' Type B landscape bufferyard requirement to allow a bufferyard to be 10' along the north property line, 3) a 5' variance from the 15' Type B landscape bufferyard requirement to allow a bufferyard to be 10' along the west property line, 4) a **8'** variance from the 15' Type B landscape bufferyard requirement to allow a bufferyard to be **7'** along the east property line, and 5) a **3'** variance from the required 10' side setback to allow a structure to be built 7' from the east property line, situated at 4674 South Presa, applicant being David Ranjbar, 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 requested bufferyards on the south, north, and west property lines is not contrary to public interest as it does not negatively impact any surrounding properties or the general public. As of now, the property has no bufferyards established, so any new development will be beneficial and a net improvement to the surrounding district.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
Literal enforcement would not allow the redevelopment of the property as proposed due to the compact configuration of the lot and establishing new bufferyards as required.
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*
In this case, the proposed bufferyard and east setback reduction will adhere to the spirit of the ordinance and substantial justice will be done by implementing the requested bufferyards on the north, south, and west property lines where none exists currently in order to rehabilitate the property.
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 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 introduction of the requested bufferyards would only enhance the overall appearance of the property, streetscape, and 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 plight of the owner for which the variance is sought is due the absence of bufferyards on an already developed property.”

Second: Mr. Teel

Mr. Oroian offered a friendly amendment to **BOA-19-103000162** to amend #4 and delete #5.
Friendly amendment was accepted by Mr. Ozuna and Mr. Teel

Amendment to #4) a **5'** variance from the 15' Type B landscape bufferyard requirement to allow a bufferyard to be **10'** along the east property line.

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

Opposed: None

Motion Granted

Item #3 **BOA-20-10300060:** A request by Sarah Manzke for a 2' special exception to allow a fence to be 8' tall along the east side property line, located at 2160 West Summit Avenue. Staff recommends Approval. (Council District 7) (Azadeh Sagheb, Planner (210) 207-5407, Azadeh.Sagheb@sanantonio.gov, Development Services Department)

Staff stated 21 notices were mailed to property owners within 200 feet, 4 returned in favor, and 1 returned in opposition. The Woodlawn Lake Community Association is in opposition.

Sarah Manzke, 2160 W. Summit Ave. – Spoke of request for special exception to add an additional 2' to 6' fence for additional privacy.

Submitted Public Comments

George DeLeon, 2155 W. Summit – In favor
William & Barbara Canela, 2154 W. Summit- In opposition
Sarah Weakley, 2170 W. Summit – In favor
Carol Lee & William Ellison, 2171 W. Summit – In favor
Alexander Devora, 2176 W Summit – In Favor
Alejandro Soto, WLCA President – Association 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-20-10300060, as presented

Mr. Manna made a **motion** for BOA-20-10300060 for approval

“Regarding Case No. BOA-20-10300060, I move that the Board of Adjustment grant a special exception to allow a privacy fence to be up to 8' tall along the eastside property line, situated at 2160 West Summit Avenue, applicant being Sarah Manzke 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 is intended to provide safety and security of the applicant's property. If granted, this request would be in harmony with the spirit and purpose of the ordinance.
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 closed fence along east side property lines will be built to provide additional security for the applicant's property. This is not contrary to the public interest.

3. *The neighboring property will not be substantially injured by such proposed use.*
The fence will create enhanced security and privacy for the subject property and is highly unlikely to injure adjacent properties. The material and style of the fence is similar to other fences and is not noticeable from the right-of-way.
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 fencing does not detract from the character of the neighborhood. The fencing is in line with other preexisting fencing material and height within the immediate vicinity.
5. *The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district.*
The current zoning permits the current use. The requested special exception will not weaken the general purpose of the district.”

Second: Ms. Fisher

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

Opposed: None

Motion Granted

Item #4

BOA-20-10300059: A request by Josefina R. Castillo for 1) a 6” variance from the 5’ side setback to allow a new residential home to be 4’6” away from the north and south property lines and 2) a 925 square foot variance from the minimum 4,000 square foot lot size to allow a lot size to be 3,075 square feet, located at 313 South San Bernardo. Staff recommends Approval. (Council District 5) (Dominic Silva, Senior Planner (210) 207-0120, Dominic.Silva@sanantonio.gov, Development Services Department)

Staff stated 41 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition. No response from Las Palmas Neighborhood Association.

Pedro DeLeon, NHSD – Spoke on behalf of Josefina R. Castillo. Requesting variance for side setback and lot size to allow for space of new residential construction.

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-20-10300059 as presented

Mr. Oroian made a **motion** for BOA-20-10300059 for approval.

“Regarding Case No. BOA-20-10300059, I move that the Board of Adjustment grant a request for 1) a 6” variance from the 5’ side setback to allow a new residential home to be 4’6” away from the north and south property lines and 2) a 925 square foot variance from the minimum 4,000 square foot lot size to allow a lot size to be 3,075 square feet, situated at 313 South San Bernardo, applicant being Josefina R. Castillo, 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 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 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 variances requested 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. Cruz

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

Opposed: None

Motion Granted

Mr. Martinez called for the Board of Adjustment to take a recess at 2:49 PM. The Board of Adjustment resumed at 2:56 PM.

Item #5

BOA-20-10300058: A request by Korling Duren for a special exception to allow one (1) Type 2 Short Term Rental, located at 322 Baltimore Avenue. Staff recommends Denial. (Council District 1) (Kayla Leal, Senior Planner (210) 207-0197, kayla.leal@sanantonio.gov, Development Services Department)

Staff stated 18 notices were mailed to property owners within 200 feet, 1 returned in favor, and 0 returned in opposition. No response from the Downtown Residents' Association.

Korling Duren, 322 Baltimore Ave. – Spoke of request for a special exception to allow for a short term rental. First floor would be long term renters and second floor will be short term renters. It is a way for him to earn extra income. The remodeling also added value to property and neighborhood.

Submitted Public comment

Stewart Porter, 318 Baltimore Ave. – In favor

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-20-10300058, as presented

Mr. Ozuna made a **motion** for BOA-20-10300058 for approval.

“Regarding Case No. BOA-20-10300058, I move that the Board of Adjustment grant a special exception to allow for (1) Type 2 short term rental unit, situated at 322 Baltimore Avenue, applicant being Korling Duren, 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 not materially endanger the public health or safety.*
The Board finds that the request to operate a short term rental is unlikely to materially endanger the public health, safety, or welfare. The subject property appears to be well-kept and recently renovated. There is nothing obvious that would distinguish a short term rental versus a long term rental at this facility.
2. *The special exception does not create a public nuisance.*
The Board finds that there are a total of six (6) residential units on this blockface and the special exception would permit a total of three (3) Type 2 short term rentals, resulting in 50% of the blockface. This and the fact that the property is in close proximity to downtown amenities allows reason to believe a public nuisance does not seem likely to be created.
3. *The neighboring property will not be substantially injured by such proposed use.*
The neighboring properties consist of duplexes and the subject property is located in close proximity to the downtown district which is an attraction to tourists. Additionally, the neighboring property is permitted for two (2) Type 2 STR Permits, so the proposed unit does not provide reason to believe it will substantially injure neighboring property as a Type 2 Short Term Rental.
4. *Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary faculties have been or are being provided.*
The Board finds the subject property to provide off-street parking and appears to have adequate utilities, access, and open space.
5. *The applicant or owner for the special exception does not have any previously revoked short term rental licenses, confirmed citations, or adjudicated offenses convictions for violations of Chapter 16, Article XXII of the City Code within one year prior to the date of the application.*
The applicant currently does not currently hold a Short Term Rental Permit and does not have any history of revocation, citations, or convictions for violations of Chapter 16.
6. *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 subject property is located downtown and in close proximity to commercial, recreational, and other residential uses. With the property owner providing off-street parking, the special exception does not appear to alter the essential character of the district and location in which the property is seeking the special exception.”

Second: Ms. Trevino

In Favor: Ozuna, Trevino, Fisher, Delmer, Cruz, Teel, Oroian, Love, Martinez

Opposed: Manna

Motion Granted

Item #6 Election of Officers

Vice Chair election

Ms. Trevino nominated Mr. Oroian for Vice Chair

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

Opposed: None

Mr. Oroian elected as Board of Adjustment Vice Chair

Pro Tem election

Ms. Cruz nominated Mr. Ozuna for Pro Tem

In Favor: Cruz, Fisher, Delmer, Teel, Manna, Oroian, Trevino, Love, Martinez

Opposed: Ozuna

Mr. Ozuna nominated Mr. Teel for Pro Tem

In Favor: Ozuna, Fisher, Delmer, Manna, Oroian, Trevino, Love, Martinez

Opposed: Cruz, Teel

Mr. Ozuna elected as Board of Adjustment Pro Tem

Item #7 Consideration and approval of the July 6, 2020 Board of Adjustment Minutes.

Motion: Chair Martinez asked for a motion for approval of the July 6, 2020 minutes as presented.

Mr. Manna made a **motion** for approval of July 6, 2020 minutes.

Second: Ms. Cruz

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

Opposed: None

Minutes Approved

Staff mentioned the rest of the summer Board of Adjustment meetings 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