

City of San Antonio



Draft

Board of Adjustment Minutes

Development and Business Services

Center

1901 South Alamo

September 21, 2020

1:00PM

Videoconference

Board of Adjustment Members

A majority of appointive Members shall constitute a quorum.

Roger F. Martinez, District 10, Chair

Donald Oroian, District 8, Vice Chair

Andrew Ozuna, Mayor, Pro-Tem

Anisa Schell, District 1 | 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

Alternate Members

Cyra M. Trevino | Anne Englert | Arlene B. Fisher | Vacant

Seymour Battle III | Kevin W. Love | Jonathan Delmer

1:06 P.M. - Call to Order

- Roll Call

- Present: Menchaca, Cruz, Teel, Manna, Oroian, Bragman, Ozuna, Delmer, Battle, Fisher, Martinez

- Absent: Britton, Schell

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-20-10300078:** A request by Brett Henneke for 1) a 1,816 square foot variance from the minimum lot size requirement of 4,000 square feet to allow the lot to be 2,184 square feet and 2) a 10' variance to the rear setback to be allow a 10' setback from the rear property line, located at 211 North Polaris Street. (Council District 2)(Kayla Leal, Senior Planner (210) 207-0197, kayla.leal@sanantonio.gov, Development Services Department)

Item # 2 **BOA-20-10300079:** A request by Ian Cochran for 1) a 7'6" variance from the 15' Type C landscape bufferyard requirement to allow a bufferyard to be 7'6" along the southeast property line, 2) a 7'6" variance from the 15' Type C landscape bufferyard requirement to allow a bufferyard to be 7'6" along the southwest property line, 3) a 16' variance from the required 30' side setback to allow a structure to be built 14' from the southeast property line, located at 8736 Wurzbach Road. Staff recommends Approval. (Council District 8) (Azadeh Sagheb, Planner (210) 207-5407, Azadeh.Sagheb@sanantonio.gov, Development Services Department)

Staff stated 10 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition.

Ian Cochran, 8736 Wurzbach Rd – Requesting variances for landscape bufferyard requirements to the southeast and southwest property lines. Variance for side setbacks to build carwash.

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-20-10300079, as presented

Mr. Manna made a **motion** for BOA-20-10300079 for approval

“Regarding Case No. BOA-20-10300079, I move that the Board of Adjustment 1) a 7'6" variance from the 15' Type C landscape bufferyard requirement to allow a bufferyard to be 7'6" along the southeast property line, 2) a 7'6" variance from the 15' Type C landscape bufferyard requirement to allow a bufferyard to be 7'6" along the southwest property line, 3) a 16' variance from the required 30' side setback to allow a structure to be built 14' from the southeast property line, situated at 8736 Wurzbach Road, applicant being Ian Cochran, 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 50% reduction of bufferyards on the southeast and southwest property lines is not contrary to public interest as it does not negatively impact any surrounding properties or the general public. The existence of the internal street on the residential community creates additional buffer area providing adequate space to get access to light and air. The development of the vacant lot will be beneficial and a net improvement to the surrounding vicinity.

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

Literal enforcement would not allow the development of the property as intended due to the lot size constraints and establishing new bufferyards as the code requirements.

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 bufferyard and setback requirements is to prevent fire spread, increase privacy, and separate uses within a district. The requested variances along the southeast and southwest property line meet the intent of the code.

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 introduced bufferyards to the property lines adjacent to a residentially used property would enhance the overall appearance of the site, streetscape, and neighborhood. Besides, the requested setback would provide enough space in creating privacy and facilitating long-term maintenance which will not substantially injure adjacent conforming properties.

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

The unique circumstance existing here is not the fault of the owner of the property, nor is it due to, or the result of, general conditions in the community in which it is located."

Second: Mr. Oroian

In Favor: Manna, Oroian, Battle, Menchaca, Delmer, Cruz, Teel, Bragman, Ozuna, Fisher, Martinez

Opposed: None

Motion Granted

Item #3 **BOA-20-10300088:** A request by Kathleen Connell for 1) a variance to allow an accessory detached dwelling unit to be located within the front property and 2) a variance to allow parking for an accessory detached dwelling unit to be located within the front yard of the property, located at 7232 Seidel Road. Staff recommends Denial with an Alternate Recommendation. (Council District 10) (Azadeh Sagheb, Planner (210) 207-5407, Azadeh.Sagheb@sanantonio.gov; Dominic Silva, Senior Planner (210) 207-0120, Dominic.Silva@sanantonio.gov Development Services Department)

Staff stated 15 notices were mailed to property owners within 200 feet, 9 returned in favor, and 1 returned in opposition. 3 responses in favor outside 200'. No response from the Oak Park Northwood Neighborhood Association.

Dr. Kathleen Connell, 7232 Seidel Road – Requesting variances to build a detached accessory dwelling unit and parking in front of property.

Submitted Public Comments

Teena Larson, 1831 La Sombra Dr – In favor

Kim Biffle, 2831 Bent Bow – In favor

Carol & Steve Spears, 2922 Albin Dr – In opposition

Keith Kinney, 7147 N. Vandiver Rd. – In favor

Dr. Craig-Alan Bias, 7204 Seidel Dr – In favor

Susanna Meriwether, 7213 Seidel Rd – In favor

Brent McClure, 7213 Seidel Rd – In favor

William Barrett, 7218 Seidel – In favor

Patty Wallis, Vice President Oak Park Northwood HOA, 251 E Sunset Rd – Neither Favor/Opp

Robyn & Derald Langham, 7350 Seidel Rd – In favor

Pam Marsh, 2830 Bent Bow Dr – 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-20-10300088, as presented

Mr. Oroian made a **motion** for BOA-20-10300088 for approval

“Regarding Case No. BOA-20-10300088, I move that the Board of Adjustment grant a request for 1) a variance to allow an accessory detached dwelling unit to be located within the front property and 2) a variance to allow parking for an accessory detached dwelling unit to be located within the front property, situated at 7232 Seidel Road, applicant being Kathleen Connell, 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.*
Given the location of the proposed accessory dwelling unit, the variance is highly unlikely to be noticed from the right-of-way. Additionally, the variance for the parking in the front of the property is not contrary to the public interest as it is not distracting visual appearance and property use.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
Due to special conditions of the property, literal enforcement of the ordinance would result in unnecessary hardship by prohibiting the owner to enjoy the full extent of their property as other neighbors within the area have done by allowing the maximum extent of the front property for both an accessory detached dwelling unit and parking to be allowed.
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 accessory detached dwelling unit requirements is to create uniformity and protect the public health, safety, and welfare. In this case, the applicant will maintain all setbacks and limit impervious cover below 50% of the front property.
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 request to allow an accessory detached dwelling unit and its parking within the front property 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.*
Staff finds that the limited size of the lot warrants the granting of this request. The applicant was informed of the limitations incurred by the ordinance and submitted the request for a variance prior to construction.”

Second: Ms. Fisher

In Favor: Oroian, Fisher, Battle, Menchaca, Delmer, Cruz, Teel, Manna, Bragman, Ozuna, Martinez

Opposed: None

Motion Granted

Item #4 **BOA-20-10300076:** A request by Celia Saenz for a special exception to allow registration of a one-operator beauty/barber shop within a single-family residence, located at 41707 Ann Arbor Dr. Staff recommends Approval. (Council District 4) (Azadeh Sagheb, Planner (210) 207-5407, Azadeh.Sagheb@sanantonio.gov, Development Services Department)

Staff stated 32 notices were mailed to property owners within 200 feet, 2 returned in favor, and 1 returned in opposition. (Located 200' away from the Villa Del Sol Neighborhood Association and did not receive any response).

Eduardo Nicasio, 41707 Ann Arbor Dr – Request for special exception to operate beauty/barber shop from home. Will work by appointment only, with limited customers during the week. Customers will be parking in the driveway.

Submitted Public Comment

Jose & Diana Rivera, 1718 Ann Arbor Dr – In favor

Everisto Rodriguez Jr, 1710 Ann Arbor Dr – In opposition

Leoncio Cardenas & Janie, 1719 Ann Arbor Dr – 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-20-10300076 as presented

Ms. Bragman made a **motion** for BOA-20-10300076 for approval.

“Regarding Case No. BOA-20-10300076, I move that the Board of Adjustment grant 1) a special to allow a registration of a one-operator beauty/barber shop within a single-family residence, situated at 1707 Ann Arbor, applicant being Celia Saenz, 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 requested special exception will be in harmony with the spirit and purpose of the chapter in that the proposed one-operator beauty salon will follow the specified criteria established in Section 35-399.01 in the Unified Development Code.
2. *The public welfare and convenience will be substantially served.*
The public welfare and convenience will be served with the granting of this request as it will provide a valuable and needed public service to the residents of the neighborhood and it will not negatively impact surrounding properties.

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 shop will operate within the main structure, 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 will not alter the essential character of the district as the use will likely be indiscernible to passersby.
5. *The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district.*
The purpose of the zoning district is to promote the public health, safety, morals, and general welfare of the city. The granting of this special exception will not weaken these purposes, nor will it weaken the regulations established for this district.”

Second: Ms. Cruz

Ms. Cruz made a **friendly amendment** to include operating days and hours, Monday – Saturday, 8:00 a.m. – 5:30 p.m. Friendly amendment accepted by **Ms. Bragman** and became new motion.

In Favor: Bragman, Cruz, Battle, Menchaca, Delmer, Teel, Manna, Oroian, Ozuna, Fisher, Martinez

Opposed: None

Motion Granted

Mr. Martinez called for the Board of Adjustment to take a recess at 2:36 p.m. The Board of Adjustment returned at 2:47 p.m.

Item #5

BOA-20-10300077: A request by Connie High for 1) a 2’11” special exception to allow the privacy fence to be up to 5’11” tall in the front yard, and 2) a variance from the Clear Vision standards to allow a fence to be within the Clear Vision field, located at 2313 Edison Drive. Staff recommends Denial with an Alternate Recommendation. (Council District 1) (Azadeh Sagheb, Planner (210) 207-5407, Azadeh.Sagheb@sanantonio.gov, Development Services Department)

Staff stated 30 notices were mailed to property owners within 200 feet, 2 returned in favor, and 2 returned in opposition. No response from the Los Angeles Neighborhood Association.

Connie High, 2313 Edison Dr – Requesting to keep fence the way she has it for security and privacy. She did not think she needed a permit for the fence, because she was replacing an existing one.

Submitted Public comment

Cecilia Cisneros, 2311 Edison – In opposition

Paul Schoffer, 2315 Edison Dr – In favor

John Gehring, 2317 Edison Dr – In favor

Cesar & Patty Rojas, 2324 Edison Dr – 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-20-10300077, to be continued until the October 19, 2020 Board of Adjustment meeting.

Mr. Oroian made a **motion** for BOA-20-10300077 to be continued until the October 19, 2020 Board of Adjustment meeting for approval.

Second: Ms. Cruz

In Favor: Oroian, Cruz, Battle, Menchaca, Delmer, Teel, Manna, Bragman, Ozuna, Fisher, Martinez

Opposed: None

Motion Granted

Item BOA-20-10300077 continued to October 19, 2020 Board of Adjustment meeting.

Mr. Ozuna left the Board of Adjustment at 3:32 p.m., **Mr. Love** joined the Board of Adjustment at 3:32 p.m.

Item #6

BOA-20-10300075: A request by J07 Investments LLC for a request for a 3,210 square foot variance from the minimum lot size requirement of 6,000 square feet to allow a lot size to be 2,790 square feet, located at 220 East Lachapelle. Staff recommends Approval. (Council District 5) (Dominic Silva, Senior Planner (210) 207-0120, Dominic.Silva@sanantonio.gov, Development Services Department)

Staff stated 26 notices were mailed to property owners within 200 feet, 0 returned in favor, and 1 returned in opposition. No response from the Lone Star Neighborhood Association.

Angel Salazar, 220 East Lachapelle – Property has not been platted, was informed they could apply for a Certificate of Determination. A two-story home would be constructed on the property.

Submitted Public comment

Narciso & Marcia Leda Cano, Never Too Late Business Center, LLC – 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-20-10300075, as presented

Mr. Teel made a **motion** for BOA-20-10300075 for approval.

“Regarding Case No. BOA-20-10300075, I move that the Board of Adjustment grant a request for a 3,210 square foot variance from the minimum lot size requirement of 6,000 square feet to allow a lot size to be 2,790 square feet, situated at 220 East Lachapelle, applicant being J07 Investments 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 variance is not contrary to the public interest as the applicant is proposing to construct a single-family residence on a currently underutilized lot with a dilapidated structure. The surrounding area predominately consists of single-family residential uses.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
Staff finds that any special conditions that, if enforced, would result in an unnecessary hardship. The subject property has a square footage less than the minimum requirement, so a literal enforcement of the ordinance would create difficulty in constructing a single-family home.
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 minimum lot dimensions is to create uniformity and protect the public health, safety, and welfare. In this case, the applicant will still maintain the side setback, creating enough separation from abutting properties.
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 request to reduce the lot size 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.*

Staff finds that the limited size of the lot warrants the granting of this request. The applicant was informed of the limitations incurred by the ordinance and submitted the request for a variance prior to construction.”

Second: Mr. Oroian

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

Opposed: Menchaca

Motion Granted

Item #7

BOA-20-10300080: A request by David Olivares for 542 square foot variance from the minimum lot size requirement of 4,000 square feet to allow a lot size to be 3,458 square feet, located at 508 Nevada Street. Staff recommends Approval. (Council District 2) (Kayla Leal, Senior Planner (210) 207-0197, kayla.leal@sanantonio.gov, Development Services Department)

Staff stated 39 notices were mailed to property owners within 200 feet, 1 returned in favor, and 0 returned in opposition. No response from the Alamodome Gardens Neighborhood Association.

David Olivares, 508 Nevada St. – Requesting variance for lot size requirements to bring the lot to compliance and apply for certificate of determination to begin construction.

Submitted Public comment

Eduardo Pichardo, 415 Nevada – In favor

Motion: Chair Martinez asked for a motion for item BOA-20-10300080, as presented

Mr. Manna made a **motion** for BOA-20-10300080 for approval.

“Regarding Case No. BOA-20-10300080, I move that the Board of Adjustment grant a request for a 542 square foot variance from the minimum lot size requirement of 4,000 square feet, as described in Section 35-310.01, to allow a lot size to be 3,458 square feet, situated at 508 Nevada Street, applicant being David Olivares, 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 requesting it due to the square footage of the lot. The applicant is proposing to construct a duplex on a currently vacant lot.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
Staff finds that any special conditions that, if enforced, would result in an unnecessary hardship. The subject property has a square footage less than the minimum requirement, so a literal enforcement of the ordinance would cause issues to obtain residential building permits to construct on the property.
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 minimum lot dimensions is to create uniformity and protect the public health, safety, and welfare. In this case, the applicant will still maintain the all of the required setbacks, creating enough separation from abutting properties.
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 request to allow the reduced lot size does not pose a risk of substantially injuring the use of adjacent properties and is not 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 Board finds that the small configuration of the lot may warrant the granting of this request. The applicant was informed of the limitations incurred by the ordinance and submitted the request for a variance prior to construction.”

Second: Ms. Cruz

In Favor: Manna, Cruz, Battle, Menchaca, Delmer, Teel, Oroian, Bragman, Love, Fisher, Martinez

Opposed: None

Motion Granted

Item #8 Consideration and approval of the August 17, 2020 Board of Adjustment Minutes.

Motion: Chair Martinez asked for a motion for approval of the August 17, 2020 minutes as presented.

Ms. Cruz made a **motion** for approval of August 17, 2020 minutes.

Second: Mr. Menchaca

In Favor: Cruz, Menchaca, Battle, Delmer, Teel, Manna, Oroian, Bragman, Love, Fisher, Martinez

Opposed: None

Minutes Approved

Adjournment

There being no further business, the meeting was adjourned at 4:04 p.m.

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary

DRAFT