

City of San Antonio



Draft

Board of Adjustment Minutes

Development and Business Services

Center

1901 South Alamo

November 2, 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

1:08 P.M. - Call to Order

- Roll Call

- Present: Schell, Trevino, Menchaca, Fisher, Cruz, Teel, Manna, Bragman, Delmer, Ozuna, Oroian

- Absent: Britton, Martinez

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-20-10300098:** A request by Killen, Griffin & Farrimond for 1) a 5' variance to the minimum front setback distance of 10' to allow a structure to be 5' from the front property line, 2) a variance to allow a privacy fence to be within the Clear Vision Field and 3) a variance from the minimum required 20' garage entrance to allow a garage entrance to be 5' , and 4) a special exception to allow a solid screen fence to be 6'4" within the front property, located at 314 East Hollywood Avenue. (Council District 1) (Dominic Silva, Senior Planner (210) 207-0120, Dominic.Silva@sanantonio.gov, Development Services Department)

Item # 2 **(CONTINUED from 10/19/2020) BOA-20-10300086:** A request by Lisa McCorquodale-Robalin for a Special Exception to allow one (1) Type 2 Short Term Rental, located at 430 East Myrtle Street. Staff recommends Denial. (Council District 1) (Kayla Leal, Senior Planner (210) 207-0197, kayla.leal@sanantonio.gov, Development Services Department)

Staff stated 37 notices were mailed to property owners within 200 feet, 4 returned in favor, and 3 returned in opposition, 1 in favor outside 200' notification area. The Tobin Hill Community Association is in opposition.

Lisa McCorquodale-Robalin, 428 East Myrtle St. – Requested to continue to next meeting. Her husband was not able to be present.

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.

Chair Oroian asked for a motion for item BOA-20-10300086, to be **continued** until the November 16, 2020 Board of Adjustment meeting.

Mr. Ozuna made a **motion** for BOA-20-10300086 to be continued to the November 16, 2020 meeting

Second: Ms. Schell

In Favor: Ozuna, Schell, Trevino, Menchaca, Fisher, Cruz, Teel, Manna, Bragman, Delmer, Oroian

Opposed: None

Motion to continue case to November 16, 2020 granted

- Item #3** **BOA-20-10300102:** A request by Killen, Griffin & Farrimond for a 10' variance to the maximum front building setback of 25' to allow a structure to be 35' away from the front property line, located at 718 West Hildebrand Avenue. Staff recommends Denial. (Council District 1) (Dominic Silva, Senior Planner (210) 207-0120, Dominic.Silva@sanantonio.gov, Development Services Department)

Staff stated 43 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition. No response from Neighborhood Association.

Rob Killen, 718 West Hildebrand – Requesting variance for building setback to build a carwash further back. Building further back will help with keeping traffic backing up on Hildebrand.

No Public Comments

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.

Chair Oroian asked for a motion for item BOA-20-10300102 as presented

Mr. Ozuna made a **motion** for BOA-20-10300102 for approval

“Regarding Case No. BOA-20-10300102, I move that the Board of Adjustment grant a request for a 10' variance to the maximum front building setback of 25' to allow a structure to be 35' away from the front property line, situated at 718 West Hildebrand Avenue, applicant being Killen, Griffin & Farrimond, 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, redeveloping a currently dilapidated and vacant lot with an introduction of bufferyards will substantially increase the welfare of the public
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
Enforcement of both the front and rear setback, as well as the required bufferyard, would result in an unnecessary hardship by limiting the amount of developable space for both the use of the property as well as an efficient traffic circulation.
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*
Substantial justice will be done by creating landscape bufferyards and redeveloping a currently dilapidated lot that will benefit the community.

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 currently vacant structure is located 100' feet from the front property line. By granting the variance, the subject property's proposed structure will conform to the general character of the district and more closely follow the spirit of the design guidelines.

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. Due to the design guidelines of a maximum front setback, the rear setback adjacent to residential properties, and introduction of bufferyards that are nonexistent currently, the amount of developable space is reduced."

Second: Mr. Menchaca

In Favor: Ozuna, Menchaca, Schell, Trevino, Fisher, Cruz, Teel, Manna, Bragman, Delmer, Oroian

Opposed: None

Motion granted

Item #4

BOA-20-10300094: A request by Amanda Christina Graham for a 8' 9" variance to the minimum 20' rear setback to allow an attached pergola and overhang to be 11' 3" from the rear property line, located at 10523 Millspring. Staff recommends Approval. (Council District 8) (Kayla Leal, Senior Planner (210) 207-0197, kayla.leal@sanantonio.gov, Development Services Department)

Staff stated 26 notices were mailed to property owners within 200 feet, 3 returned in favor, and 0 returned in opposition. No response from the Vance Jackson Neighborhood Association.

Amanda & Chris Graham, 10523 Millspring – Requesting variance to rebuild pergola to support the weight of the solar panels.

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 Oroian asked for a motion for item BOA-20-10300094 as presented

Ms. Fisher made a **motion** for BOA-20-10300094 for approval.

“Regarding Case No. BOA-20-10300094, I move that the Board of Adjustment grant a request for a request for an 8’ 9” variance to the minimum 20’ rear setback to allow an attached pergola and overhang to be 11’ 3” from the rear property line, situated at 10523 Millspring, applicant being Amanda Christina Graham, 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 complete construction of an attached pergola, and there is still 11’ 3” of space between it and the rear property line.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
The Board finds that any special conditions that, if enforced, would result in an unnecessary hardship. With the limited amount of space in the rear of the property, moving the structure farther away from the property line will result in less space provided for the proposed solar paneling.
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 accessory structure setbacks is to provide spacing between neighboring structures. The applicant will still maintain some space between the pergola and the structure on the adjacent 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 reduce the rear setback 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 seeing as there will still be more than 10’ of separation. The structure itself will also need to be signed off by an engineer to ensure structural stability for the solar panels.

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 location of the attached accessory structure and proposed plans for the lot shall warrant the granting of this request. The applicant was informed of the limitations incurred by the ordinance and submitted the request for a variance.”

Second: Mr. Menchaca

In Favor: Fisher, Menchaca, Schell, Trevino, Cruz, Teel, Manna, Bragman, Ozuna, Delmer, Oroian

Opposed: None

Motion Granted

Chair Oroian called for the Board of Adjustment to take a recess at 2:17 p.m. The Board of Adjustment returned at 2:24 p.m.

Item #5

BOA-20-10300095: A request by Adriana Orozco for 1) a 4' 5" variance to the 5' minimum side setback requirement to allow a carport and accessory structure to be 7" from the side property line, 2) a 19' variance to allow an attached accessory structure to be 1' from the rear property line, 3) a special exception to allow a solid-screened front yard fence to be 5' tall, and 4) a special exception to allow the side yard fence to be 8' tall, located at 2412 Cincinnati Avenue. Staff recommends Denial with an Alternate Recommendation. (Council District 7) (Kayla Leal, Senior Planner (210) 207-0197, kayla.leal@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 University Park Neighborhood Association.

Adriana & Manuel Orozco, 2412 Cincinnati – Requesting variance to keep carport the way it is.

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 Oroian asked for a motion for item BOA-20-10300095 as presented

Mr. Manna made a **motion** for BOA-20-10300095 for approval.

“Regarding Case No. BOA-20-10300095, I move that the Board of Adjustment grant a request for 1) a 2’ variance to the 3’ minimum side setback requirement, to allow a carport and accessory structure to be 7” from the side property line and 2) a 19’ variance to allow an attached accessory structure to be 1’ from the rear property line, situated at 2412 Cincinnati Avenue, applicant being Adriana Orozco, 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. The variance requested for the side setback encroachment of the carport is not contrary to the public interest as the applicant has enough separation from neighboring structures and has water drainage onto the subject property. The variance requested for the rear setback is not contrary to the public interest, being as there is an alleyway behind the property and half of the alleyway can contribute toward the rear setback, which provides adequate space.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
The Board finds that any special conditions that, if enforced, would result in an unnecessary hardship. The accessory structure was existing prior and the addition of the carport was an extension from the existing structure.
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 side and rear setbacks is to provide spacing between neighboring structures. The applicant will still maintain space between structures and water drainage is not affecting the adjacent 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 Board finds the request to reduce the side and rear setback 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 variances are sought due to the unique circumstance that the existing non-conforming structure was within the setback which led to the development of the carport extension.”

Second: Mr. Ozuna

In Favor: Manna, Ozuna, Schell, Trevino, Fisher, Cruz, Teel, Bragman, Delmer, Oroian

Opposed: Menchaca

Motion Granted

Motion: Chair Oroian asked for a motion for item BOA-20-10300095 **Special exception**, as presented

Mr. Manna made a **motion** for BOA-20-10300095 for approval.

“Regarding Case No. BOA-20-10300095, I move that the Board of Adjustment grant 3) a special exception to allow a solid-screened front yard fence to be 5’ tall and 4) a special exception to allow the side yard fence to be 8’ tall, situated at 2412 Cincinnati Avenue, applicant being Adriana Orozco, 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. 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 fence heights to protect residential property owners while still promoting a sense of community. A 5’ tall solid-screened fence within the front yard and an 8’ fence along the side yard will 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.

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 of a single-family home. The requested special exception will not weaken the general purpose of the district.”

Second: Mrs. Cruz

In Favor: Manna, Cruz, Schell, Trevino, Menchaca, Fisher, Teel, Bragman, Delmer, Ozuna, Oroian

Opposed: None

Motion Granted

Item #6

BOA-20-10300100: A request by Randy Burt for a 9” variance from the required 5’ side setback to allow a new residential structure to be 4’3” away from the side property line, located at 931 Blue Landing. Staff recommends Approval. (Council District 3) (Azadeh Sagheb, Planner (210) 207-5407, Azadeh.Sagheb@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 Registered Neighborhood Association.

Randy Burt, Lamar Homes, 931 Blue Landing – Requesting variance for property setback. The foundation was poured before the survey company checked.

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 Oroian asked for a motion for item BOA-20-10300100, as presented

Mrs. Cruz made a **motion** for BOA-20-10300100 for approval.

“Regarding Case No. BOA-20-10300100, I move that the Board of Adjustment grant a request for a 9” variance from the required 5’ side setback to allow a new residential structure to be 4’3” away from the side property line, situated at 931 Blue Landing, applicant being Randy Burt, 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 constructing a single-family house on a currently vacant lot, which is surrounded by single-family residential. Therefore, the requested variance is in harmony with the uses in the community.
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 requested variance is minor, and the home is almost complete, so the literal enforcement of the ordinance would create financial hardship associated with the demolition and rebuilding process.
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 requirement rather than the strict letter of the law. The request to reduce the side setback by 9” would still allow these standards to be met. The requested variance will not be noticeable, and although it may not adhere to the code requirement, it will allow adequate space between the house and right-side property line.
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 requested variance will not permit a use not authorized within the “R-5” Single-Family 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 side setback do not pose a risk of substantially injuring the use of adjacent properties. It will not alter the integrity 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.*
Staff finds that the minor size of setback shall warrant the granting of this request. If the variance is approved, adequate space will be reserved for maintenance of the structure without trespass, stormwater controls, and adequate fire separation.”

Second: Mr. Menchaca

In Favor: Cruz, Menchaca, Schell, Trevino, Fisher, Teel, Manna, Bragman, Delmer, Ozuna, Oroian

Opposed: None

Motion Granted

Item #7 **BOA-20-10300089:** A request by Donald Smith for a 2’ special exception to allow a privacy wood fence to be up to 8’ tall in the side and rear of property, located at 6119 Bear Branch. Staff recommends Approval. (Council District 2) (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, 3 returned in favor, and 2 returned in opposition. No response from the Lakeside Neighborhood Association.

Donald Smith, 6119 Bear Branch – Requesting special exception to allow wooden privacy fence to be up to 8' on property. The original 6' privacy fence was falling over to neighbor's yard.

Submitted Public comment

Cristobal Olivares, 6123 Bear Branch – In favor
Philip Hopper, 6126 Bear Branch Dr – In opposition
Desha Mills, 6114 Bear Branch – In favor
Nina Christopher, 6111 Bear Branch Dr – In favor
Eddie Pena, 6123 Foster Trail Dr – In opposition

Motion: Chair Oroian asked for a motion for item BOA-20-10300089, as presented

Mr. Menchaca made a **motion** for BOA-20-10300089 to be continued to the November 16, 2020 meeting

Second: Mr. Teel

In Favor: Menchaca, Teel, Schell, Fisher, Cruz, Ozuna

Opposed: Trevino, Manna, Bragman, Delmer, Oroian

Motion to continue case to November 16, 2020 granted

Item #8

BOA-20-10300099: A request by Louis Ullrich for a 2' special exception to allow a privacy fence to be up to 8' tall in the side and rear of property, located at 18219 Brookwood Forest. Staff recommends Approval. (Council District 9) (Azadeh Sagheb, Planner (210) 207-5407, Azadeh.Sagheb@sanantonio.gov, Development Services Department)

Staff stated 19 notices were mailed to property owners within 200 feet, 2 returned in favor, and 0 returned in opposition. No Registered Neighborhood Association.

Louis Ullrich, 18219 Brookwood Forest – Requesting special exception for his privacy fence. The fence provides security and also eliminates the highlights from passing vehicles at commercial property.

Submitted Public comment

Chien C Liu, 18510 Eagle Ford – In favor
David Strahan, 18211 Brookwood Forest – In favor
David McClain, 18507 Shiloh Forest – In favor

Motion: Chair Oroian asked for a motion for item BOA-20-10300099, as presented

Ms. Bragman made a **motion** for BOA-20-10300099 for approval.

“Regarding Case No. BOA-20-10300099, I move that the Board of Adjustment grant a special exception to allow a privacy fence to be up to 8’ tall in the side and rear of property, situated at 18219 Brookwood Forest, applicant being Louis Ullrich, 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 spirit of the chapter is intended to provide for reasonable protections to property owners and to establish a sense of community within the neighborhoods. The request for an 8’ tall solid screen fence in the side and rear yard of the property is in harmony with the spirit of the chapter.
2. *The public welfare and convenience will be substantially served.*
The public welfare and convenience can be served by the added protection of higher, allowing the property owner to protect the subject property, and reduce the noise and headlights distraction.
3. *The neighboring property will not be substantially injured by such proposed use.*
No adjacent property owner, nor the traveling public will be harmed by the proposed fence heights. The material and style of the fence is similar to other fences utilized within the immediate vicinity.
4. *The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought.*
The fence will create enhanced privacy and security for the subject property and is highly unlikely to injure adjacent properties.
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 allows the current use of a single-family home. The requested special exception will not weaken the general purpose of the district.”

Second: Mr. Manna

In Favor: Bragman, Manna, Schell, Trevino, Menchaca, Fisher, Cruz, Teel, Delmer, Ozuna, Oroian

Opposed: None

Motion Granted

Item #9 Approval of the 2021 Board of Adjustment Meeting Calendar

Motion: Chair Oroian asked for a motion for approval of the 2021 Board of Adjustment Meeting calendar as presented.

Mr. Manna made a **motion** for approval of 2021 Board of Adjustment Meeting calendar

Second: Ms. Cruz

In Favor: Manna, Cruz, Schell, Trevino, Menchaca, Fisher, Teel, Bragman, Delmer, Ozuna, Oroian

Opposed: None

Calendar approved

Item #10 Consideration and approval of the October 19, 2020 Board of Adjustment Minutes.

Motion: Chair Oroian asked for a motion for approval of the October 19, 2020 minutes as presented.

Mr. Manna made a **motion** for approval of October 19, 2020 minutes.

Second: Ms. Schell

In Favor: Manna, Schell, Trevino, Menchaca, Fisher, Cruz, Teel, Bragman, Delmer, Ozuna, Oroian

Opposed: None

Minutes Approved

Adjournment

There being no further business, the meeting was adjourned at 3:53 p.m.

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary

DRAFT