City of San Antonio

Draft

Board of Adjustment Minutes

Development and Business Services
Center
1901 South Alamo

March 15, 2021 **1:00PM** **Videoconference**

Board of Adjustment Members
A majority of appointive Members shall constitute a quorum.

Donald Oroian, District 8, Chair
Andrew Ozuna, Mayor, Vice Chair
Seth Teel, District 6, Pro-Tem

Anisa Schell, District 1 | Seymour Battle III, District 2
Abel Menchaca, District 3 | George Britton, District 4 |
Maria Cruz, District 5 | Phillip Manna, District 7
Kimberly Bragman, District 9 | Jonathan Delmer, District 10

Alternate Members
Cyra M. Trevino | Vacant | Arlene B. Fisher | Vacant Vacant |
Kevin W. Love | Vacant

1:01 P.M. - Call to Order

- **Roll Call**
- **Present:** Schell, Menchaca, Cruz, Manna, Bragman, Delmer, Fisher, Teel, Ozuna, Oroian
- **Absent:** Britton, Battle

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-21-10300003:** A request by Bob Wehrmeyer for 1) a sign variance to allow for an additional 180 square feet of signage for three cabinets and 2) a 18' sign variance from the minimum 150' spacing requirement to allow for a sign to be 132' away from an adjacent sign, located at 1922 SW Military Drive. (Council District 3) (Kayla Leal, Senior Planner (210) 207-0197, kayla.leal@sanantonio.gov, Development Services Department)

Item #2 **(Continued from December 21, 2020) BOA-20-10300119:** A request by Patrick Williams Christensen for a zoning variance from the South Presa and South St. Mary's Neighborhood Conservation District design regulations to allow 1) a new residential development to be three stories and 38' in height, and 2) attached rear facing garages to be constructed, located at 1508 South St. Mary's Street. Staff recommends Approval. (City Council District 1) (Azadeh Sagheb, Planner (210) 207-5407, Azadeh.Sagheb@sanantonio.gov, Development Services Department)

Staff stated 37 notices were mailed to property owners within 200 feet, 1 returned in favor, and 0 returned in opposition. No response from the King William Association located within 200'. The Conservation Society of San Antonio is in opposition. The Lavaca Neighborhood Association is in favor.

Patrick Christensen, 1508 South St. Mary's – Requesting variance for three units pulled from past meeting. Request same variance as previous passed for other units from December 2020. Requesting 3 additional feet for height.

Submitted Public Comment
Patti Zaiontz, President, The Conservation Society of San Antonio – 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.

Chair Oroian asked for a motion for item BOA-20-10300119, as presented

Mr. Manna made a **motion** for BOA-20-10300119 for approval

"Regarding Case No. BOA-20-10300119, I move that the Board of Adjustment grant a request for a zoning variance from the South Presa and South St. Mary's Neighborhood Conservation District design regulations to allow 1) a new residential development to be three stories and 38' in height, and 2) attached rear facing garages to be constructed, situated at 1508 South St. Mary's Street, applicant being Patrick Williams Christensen, 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 variances are not contrary to public interest as it does not negatively impact any surrounding properties or the general public. Same variances for the larger portion of the proposed development were granted by the Board and these requests will be in harmony with the rest of project.

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 hardship to accommodate the suitable density for the rest of three lots and build them with a different patten.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*
   The spirit of the Neighborhood Conservation District design standards is to encourage developments that preserves the character and culture of the Lavaca community. The proposed development would comprise the entire blockface between two major corridors. Therefore, the spirit of the ordinance will be observed, and substantial justice will be done.

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 variances will not permit a use not authorized within the district it is located in.

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 requested variances will pose a risk of substantially injuring the use of adjacent properties which include the Brackenridge High School campus, several commercial and residential uses along the rear side of the subject property.

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 applicant is willing to develop the whole blockface and these three lots were awaiting the HDRC review."

Second: Cruz

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

Opposed: None

Motion Granted

Item #3 **BOA-21-10300004:** A request by Mary Ann Paredez for a special exception to allow a back yard fence and side yard fence to be 8' tall, located at 5338 Vista Run. Staff recommends Approval. (Council District 10) (Joyce Palmer, Planner, 210-207-0315, Joyce.Palmer@sanantonio.gov, Development Services Department)

Staff stated 31 notices were mailed to property owners within 200 feet, 3 returned in favor including 1 outside the 200' notification area, and 2 returned in opposition. Vista Neighborhood Association is in support.

Mary Ann Paredez, 5338 Vista Run – Requesting a special exception to keep 8' tall fence. The fence is needed for safety and privacy for the family.

Submitted Public Comment
Veronica Saldana, 5327 Vista Run – In favor
Curtis Evans, 5402 Vista Run – In favor
Jennifer Oates, President, Vista Neighborhood Association – In favor
Dennis Sherman, 5335 Vista Glen – In favor
Paula & Dave O'Docharty, 5334 Vista Run – In opposition
Marie Bauckman, 5406 Vista Run 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.

Chair Oroian asked for a motion for item BOA-20-10300004, as presented

Ms. Schell made a **motion** for BOA-20-10300004 for approval

"Regarding Case No. BOA-21-10300004, I move that the Board of Adjustment grant 1) a special exception to allow a **fence on the back yard and east side to be 8' tall and 6' on the west side along the plane of the house,** situated at 5338 Vista Run, applicant being Mary Ann Paredez, 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 privacy 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. An 8' fence along the back and side property lines will provide additional privacy and 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 unlikely to injure adjacent properties.

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 additional height for the section of side and back yard fence will not alter the essential character of the district and will provide security of the district.

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: Manna

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

Opposed: Menchaca

Motion Granted

Item #4 **BOA-21-10300005:** A request by Sylvia Cantu for a request for 1) a special exception to allow a front yard fence to be 6' tall privacy fence and 2) a 10' 4" variance from the minimum 15' clear vision requirement to allow a front yard fence to be 4' 8" from the street, located at 6214 Spring Valley. Staff recommends Approval. (Council District 10) (Mirko A. Maravi, Senior Planner, 210-207-0107, Mirko.maravi@sanantonio.gov, Development Services Department)

Staff stated 32 notices were mailed to property owners within 200 feet, 0 returned in favor, and 7 returned in opposition. No response from the Elmwood HOA Neighborhood Association.

Sylvia Cantu, 6214 Spring Valley – Requesting a special exception and variance to keep privacy fence. The fence is needed for privacy and safety.

Submitted Public Comment
Christopher Davis, 6206 Spring Valley – in opposition
Everette Fikr, 6203 Spring Valley – in opposition
James Grham, 6211 Spring Valley – in opposition
Lourdes Escobar, 6207 Spring Valley – in opposition
Austin Downes, 6215 Spring Valley – in opposition
Maria Garcia-Luna, 6202 Spring Valley – in opposition
George & Toni White, 6210 Spring Valley -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.

Chair Oroian asked for a motion for item BOA-20-10300005, as presented

Mr. Ozuna made a **motion** for BOA-20-10300005 for approval

"Regarding Case No. BOA-21-10300005, I move that the Board of Adjustment grant a special exception to allow a front yard fence to be 6' tall privacy fence, situated at 6214 Spring Valley, applicant being Sylvia Cantu, 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 6' fence along the property line 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 unlikely to injure adjacent properties.

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 additional height for the section of side yard fence will not alter the essential character of the district and will provide security of the district.

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: Teel

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

Opposed: None

Motion Granted

Chair Oroian asked for a motion for item BOA-20-10300005 clear vision variance, as presented

Mr. Ozuna made a **motion** for BOA-20-10300005 for approval

"Regarding Case No. BOA-21-10300005, I move that the Board of Adjustment grant a **6'** variance from the minimum 15' clear vision requirement to allow a front yard fence to be **9'** from the street, situated at 6214 Spring Valley, applicant being Sylvia Cantu, 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 applicant is requesting the variance in order to construct a 4' for section and 6' tall for remainder up to the front to property line. The proposed fence is not contrary to the public interest.

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

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 fence is to protect residential property owners while still promoting a sense of community which is being observed with this request.

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.*
   No uses other than those allowed within the district will be allowed with this variance.

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 15' clear vision area has been reviewed by DSD Traffic and they have determined it does not seem to propose any sight constraints.

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 applicant is requesting the variance to install a new fence and the unique circumstances were not created by the owner of the property and are not financial in nature."

Second: Fisher

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

Opposed: None

Motion Granted

Item #5 **BOA-21-10300006:** A request by Philip Schulman for 1) a 1,480 square foot variance from the minimum lot size square footage of 4,000 to allow a lot to be 2,520 square feet, and 2) a 5' variance from the minimum 20' rear setback requirement to allow the structure to be 15' from the rear property line, located at 105 Lux Lane. Staff recommends Approval. (Council District 3) (Azadeh Sagheb, Planner (210) 207-5407, Azadeh.Sagheb@sanantonio.gov, Development Services Department)

Staff stated 29 notices were mailed to property owners within 200 feet, 2 returned in favor, and 0 returned in opposition. No response from the Highland Park Neighborhood Association.

Philip Schulman, 1446 W Woodlawn Ave – Requesting variance to fix residence to be up to code.

Submitted Public Comment
Minerva Quintero, 823 Kayton Ave – In favor
Albert & Mary Lou Cortinas, 815 Kayton – 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.

Chair Oroian asked for a motion for item BOA-20-10300006, as presented

Ms. Cruz made a **motion** for BOA-20-10300006 for approval

"Regarding Case No. BOA-21-10300006, I move that the Board of Adjustment grant the requests for 1) a 1,480 square foot variance from the minimum lot size square footage of 4,000 to allow a lot to be 2,520 square feet, and 2) a 5' variance from the minimum 20' rear setback requirement to allow the structure to be 15' from the rear property line, situated at 105 Lux Lane, applicant being Philip Schulman, 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 applicant wants to remodel an existing structure located in a substandard lot. The community is predominantly surrounded by single-family residential and upgrading this old house will add to the wellbeing of the surrounding neighborhood. The intended development is not contrary to the public interest.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
   The lot square footage is below the minimum code requirement, and a 5' less rear setback will still provide enough space for long-term maintenance. A literal enforcement of the ordinance would result in unnecessary hardship and if the variances are not granted the lot will remain vacant.

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 requested variances will help to give life to an old structure and revitalize the neighborhood.

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 variances will not permit a use not authorized within the district it is located in.

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 requested variances to reduce the lot size and the rear setback would not substantially injure or alter the use or character of adjacent conforming property or harmony 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 plight resulted from the exceptional character of the property, which is its size and being used as a neglected rental residence. The applicant aims to retrofit the structure and return it to occupancy."

Second: Fisher

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

Opposed: None

Motion Granted

Item #6 **BOA-20-10300142:** A request by Cotton Estes for a 5% variance from the 35% maximum square footage restriction to allow an Attached Accessory Dwelling to be 40%, located at 230 Thelka. Staff recommends Approval. (Council District 3) (Joyce Palmer, Planner, 210-207-0315, Joyce.Palmer@sanantonio.gov, Development Services Department)

Staff stated 26 notices were mailed to property owners within 200 feet, 4 returned in favor, and 0 returned in opposition. No registered Neighborhood Association.

Cotton Estes, 230 & 232 Thelka – Requesting variance to allow for the construction of an attached accessory dwelling unit. The unit will be used as a guest house for her parents.

Submitted Public Comment
Chester Spaulding, 4215 Woodbridge way – In favor
Rudolph Gonzales, 304 Lorraine Ave – In favor
Sylvia Dimas, 138 & 228 Thelka – In favor
Linda Henry, 250 Thelka – 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.

Chair Oroian asked for a motion for item BOA-20-10300142, as presented

Mr. Teel made a **motion** for BOA-20-10300142 for approval

"Regarding Case No. BOA-20-10300142, I move that the Board of Adjustment grant a request for a 97 square foot variance from the 35% maximum square footage requirement to allow an Attached Accessory Dwelling to be 800 square feet, situated at 230 and 232 Thelka, applicant being Cotton Estes, 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 97 square foot variance would not be contrary to the public interest

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

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*
   By granting of the variance, the spirit of the ordinance will be observed and substantial justice will be done.

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.*
   This variance request only affects the lot, and will not impact the operation of a use not specifically authorized for the R-5 zoning district. The accessory dwelling unit will be part of construction built on two lots replated into one larger lot.

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 requested variance will not substantially injure the appropriate use of adjacent conforming property and alter the essential 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 unique circumstances of this property for which the variance is sought is due to the unique circumstances existing on the property and were created by the owner of the property, however they are for safety and privacy purposes."

Second: Manna

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

Opposed: None

Motion Granted

Chair Oroian called for the Board of Adjustment to take a recess at 3:09 pm. The Board of Adjustment returned at 3:18 pm.

Item #7 **BOA-21-10300002:** A request by Bexar Engineers & Associates for 1) a special exception to allow the front fence to be 6'4" tall, 2) a 7'8" variance from the minimum 15' Clear Vision field requirement to allow the front yard fence to be 7'4" away from the street, 3) zoning variances from the Accessory Detached Dwelling Unit requirements to allow a) a roof pitch not identical to the principal residence, and b) the parking space to be located within the front yard, located at 1014 West Hermosa Drive. Staff recommends Denial with an Alternate Recommendation. (City Council District 1) (Azadeh Sagheb, Planner (210) 207-5407, Azadeh.Sagheb@sanantonio.gov, Development Services Department)

Staff stated 33 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition. No response from Central Los Angeles Heights Neighborhood Association.

Jonathan Bexar, 1014 West Hermosa Dr – Representing homeowner. Requests for special exception and variances to be allowed for their 6'4" front fence, and the detached accessory dwelling unit. The unit will be used by the homeowner's son.

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-20-10300002, as presented

Mr. Ozuna made a **motion** for BOA-20-10300002 for approval

"Regarding Case No. BOA-21-10300002, I move that the Board of Adjustment grant 1) a special exception to allow the **predominately open** front fence to be 6'4" tall, situated at 1014 West Hermosa Drive, applicant being Bexar Engineers & Associates, 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 height is related to the ornamental sliding driveway gate. 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. The wrought iron fence within the front yard is predominantly open and 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 material and style of the gate is similar to other fences used in the neighborhood. The neighboring property 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 fencing does not detract from the character of the neighborhood. The fencing is in line with other preexisting fencing 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 of a single-family home. The requested special exception will not weaken the general purpose of the district."

Second: Teel

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

Opposed: None

Motion Granted

Chair Oroian asked for a motion for item BOA-20-10300002, for clear vision, as presented

Mr. Ozuna made a **motion** for BOA-20-10300002 for approval

"Regarding Case No. BOA-21-10300002, I move that the Board of Adjustment grant 1) a 7'8" variance from the minimum 15' Clear Vision field requirement to allow the front yard fence to be 7'4" away from the street, situated at 1014 West Hermosa Drive, applicant being Bexar Engineers & Associates, 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 fence and ADDU placement, the variances to Clear Vision and ADDU requirements are not contrary to the general health and safety of passersby and will not distract the uniformity of community.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
   Staff finds that a literal enforcement would create an unnecessary hardship.

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 Clear Vision is to increase visibility when entering/existing properties and limit harm to passersby. The constructed fence within the Clear Vision would cause sight issues.

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.*
   No uses other than those allowed within the district will be allowed with this variance.

5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*
   The Board finds that having lesser clear vision would not substantially injure the appropriate use of adjacent properties. The request to have a pitch roof instead of gable roof for the ADDU does not seem 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 unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial."

Second: Teel

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

Opposed: None

Motion Granted

Chair Oroian asked for a motion for item BOA-20-10300002, for parking, as presented

Mr. Manna made a **motion** for BOA-20-10300002 for approval

"Regarding Case No. BOA-21-10300002, I move that the Board of Adjustment grant a parking space to be located within the front yard, situated at 1014 West Hermosa Drive, applicant being Bexar Engineers & Associates, 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 fence and ADDU placement, the variances to Clear Vision and ADDU requirements are not contrary to the general health and safety of passersby and will not distract the uniformity of community.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
   Staff finds that a literal enforcement would create an unnecessary hardship.

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. There is adequate space available in the front yard to accommodate two cars that can be used as parking space for the accessory detached dwelling unit.

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.*
   No uses other than those allowed within the district will be allowed with this variance.

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 existing front yard parking area could provide parking space for the ADDU resident without distracting the character of 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 unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial."

Second: Oroian

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

Opposed: Schell

Motion Granted

Item #8 **BOA-20-10300141:** A request by Rose Valdez for 1) a 1'4" variance to the minimum side setback requirement of 5' to allow a new addition having 1'2" overhang to be 3'8" away from the side property line, and 2) a 4'9" variance to the minimum side setback requirement of 5' to allow a detached carport to be 3" away from the side property line, located at 2510 Cincinnati Avenue. Staff recommends Denial with an Alternate Recommendation. (Council District 7) (Azadeh Sagheb, Planner (210) 207-5407, Azadeh.Sagheb@sanantonio.gov, Development Services Department)

Staff stated 23 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition. No response from University Park Neighborhood Association.

Jesse Uzuniga, 5511 San Pedro – Representing homeowner, Rose Valdez. In agreement with Staff's recommendation to move the temporary structure.

No Public Comment

The Board asked the applicant questions concerning the request. The Applicant responses were heard by the board as well as other testimonies offered, followed by a discussion among board members before the vote.

Chair Oroian asked for a motion for item BOA-20-10300141, as presented

Mr. Manna made a **motion** for BOA-20-10300141 for approval

"Regarding Case No. BOA-20-10300141, I move that the Board of Adjustment grant a request for a 1'4" variance to the minimum side setback requirement of 5' to allow a new addition having 1'2" overhang to be 3'8" away from the side property line, situated at 2510 Cincinnati Avenue, applicant being Rose Valdez, 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 constructed new addition is not contrary to public interest as it does not negatively impact any surrounding neighbors or the general public. There is plenty of space between the subject property and the adjacent building.

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 unnecessary hardship. The new addition has already been built and if the variance is not granted the structure would have to be demolished.

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 new addition has 1'2" overhang and is 2'6" away from the side property line that leaves adequate space for long term maintenance trespass.

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.*
   No uses other than those permitted within the district will be allowed with this variance.

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 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 in which the property is located. The attached addition was constructed with an hour exterior fire wall assembly.

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 new addition maintains the architectural appearance of the primary structure and the requested variance will not distract the harmony of the surrounding area."

Second: Fisher

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

Opposed: None

Motion Granted

Chair Oroian asked for a motion for item BOA-20-10300141 carport setback, as presented

Mr. Manna made a **motion** for BOA-20-10300141 for approval

"Regarding Case No. BOA-20-10300141, I move that the Board of Adjustment grant a request for a **3'** variance to the minimum side setback requirement of 5' to allow a detached carport to be **2'** away from the side property line, situated at 2510 Cincinnati Avenue, applicant being Rose Valdez, 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 requested for the side setback encroachment of the carport is not contrary to the public interest.

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 unnecessary hardship. The applicant already anchored the carport to the ground but is a temporary anchor and can be moved easily.

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 setbacks is to provide spacing between neighboring structures. There is adequate space for maintenance of the structure without trespass.

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.
No uses other than those permitted within the district will be allowed with this variance.

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 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 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 applicant has used this carport as a patio and storage area for a long time."

Second: Schell

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

Opposed: None

Motion Granted

Item #9 **BOA-20-10300140:** A request by D. Scott Dye for the following: For the structure at 535 West Kings Highway: A request for 1) a 1' variance to the 5' minimum side setback requirement to allow the front structure facing W Kings Hwy to have an attached carport with 6" overhang to be 4' from the east side property line, 2) a special exception to allow a side yard fence to be 8' tall, 3) a variance from the Alta Vista Neighborhood Conservation District regarding carports to maintain the same roof line(s) as the primary structure; and, for the structure at 3500 block of North Flores Street: A request for 4) a 2' variance to the 5' minimum side setback requirement to allow a structure to be 3' from the north side property line, 5) a 6' 6" variance to the minimum 10' front setback to allow a structure to be 4' 6" from the front property line, 6) a special exception to allow a solid wood front yard fence to be 4' 2" tall, 7) a waiver from the Minimum Parking Standards, and 8) a variance from the Alta Vista Neighborhood Conservation District to allow a solid wood front yard fence to be 4' 2" tall. Staff recommends Denial with an Alternate Recommendation. (Council District 1) (Kayla Leal, Senior Planner (210) 207-0197, kayla.leal@sanantonio.gov, Development Services Department)

Staff stated 27 notices were mailed to property owners within 200 feet, 1 returned in favor, and 1 returned in opposition. The Alta Vista Neighborhood Association concurs with Staff recommendation.

Anand Bhakta, 8830 Monarchy Rd – Requesting variances and special exceptions for renovations of property. Will shave down the side of carport to maintain roof line(s), replace fence to what is allowed.

Submitted Public Comment
Christina Wright, President, Alta Vista Neighborhood Association – In favor
Thomas Gleason, 523 W. Kings Hwy – In opposition
Michael Enright, 537 W Summit Ave – Undecided

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-20-10300140, as presented

Mr. Ozuna made a **motion** for BOA-20-10300140 for approval

"Regarding Case No. BOA-20-10300140, I move that the Board of Adjustment grant a request for **1)** a 1' variance to the 5' minimum side setback requirement to allow the front structure facing W Kings Hwy to have an attached carport with 6" overhang to be 4' from the eastern side property line, **4)** a 2' variance to the 5' minimum side setback requirement to allow a structure to be 3' from the north side property line, **5)** a 6' 6" variance to the minimum 10' front setback to allow a structure to be 4' 6" from the front property line, **7)** a waiver from the Minimum Parking Standards, and **8)** a variance from the Alta Vista Neighborhood Conservation District to allow a **fifty percent alternating picket** front yard fence, situated at 535 West Kings Highway and the 3500 Block of North Flores Street, applicant being D. Scott Dye, 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 variance requested for the side setback encroachment of the carport for the structure facing W Kings Hwy is not contrary to the public interest as the applicant has enough separation from neighboring structures. The side setback for the structure facing N Flores Street is also requesting a reduction to 3', which does not pose any adverse effects.

   The variances to the Alta Vista NCD design standards are minimal and not contrary to the public interest.

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 for the applicant.

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 setback is to provide spacing between neighboring structures and the intent of the Alta Vista NCD design standards is to promote uniformity in the community. The applicant will maintain space between structures and the design of the carport and the front yard fence along North Flores St. will not stray far from the spirit of the ordinance. On-street parking is also available in the immediate area.

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 setback for the eastern and northern property lines and the request for variances from the NCD design guidelines do 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 unique circumstances existing on the property are neither due to the general conditions of the district, nor due to the owner, and is not financial in nature. Given the other design standards being consistent with the Neighborhood Conservation District, the requested variances are in line with the character of the neighborhood."

Second: Schell

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

Opposed: None

Motion Granted

Chair Oroian asked for a motion for item BOA-20-10300140 special exception, as presented

Mr. Ozuna made a **motion** for BOA-20-10300140 for approval

"Regarding Case No. BOA-20-10300140, I move that the Board of Adjustment grant 2) a special exception to allow a side yard fence to be 8' tall, and 6) a special exception to allow a **fifty percent alternating wood picket** front yard fence to be 4' 2" tall, situated at 535 West Kings Highway and the 3500 Block of North Flores Street, applicant being D. Scott Dye, 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 additional fence height is intended to provide security of the applicant's property. The requests to increase the height of a portion of the side yard fence along the eastern property line and the front yard fence along North Flores Street would be in harmony with the spirit and purpose of the ordinance.

2. *The public welfare and convenience will be substantially served.*
   An 8' tall fence along a portion of the eastern side yard will provide additional security for the applicant's property, and a front yard fence will provide an enclosed space for the small lot. This is not contrary to the public interest.

3. *The neighboring property will not be substantially injured by such proposed use.*
   The fence will enhance security and privacy for the subject property and is highly unlikely to injure adjacent properties.

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 special exception for the fence height does not detract from the character of the neighborhood.

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: Schell

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

Opposed: None

Motion Granted

Item #10 **BOA-21-10300007:** A request by Dave Isaacs for 1) variances from the Mahncke Park Neighborhood Conservation District design standards to include a) transition spaces and b) windows, 2) a 3' variance to the minimum 5' rear setback to allow a detached carport to be 2' from the rear property line, 3) a 4' 11" variance to the minimum 5' side setback to allow a detached carport to be 1" from the side property line and 4) a 3' variance to the minimum 15' clear vision requirement to allow a driveway to be 12' from the street, located at 300 Queen Anne Court. Staff recommends Denial with Alternate Recommendation. (Council District 2) (Kayla Leal, Senior Planner (210) 207-0197, kayla.leal@sanantonio.gov, Development Services Department)

Staff stated 36 notices were mailed to property owners within 200 feet, 2 returned in favor, and 1 returned in opposition, 1 in favor outside 200' barrier. No response from the Mahncke Park Neighborhood Association.

Dave Isaacs, 300 Queen Anne Court – Homebuilder requesting variances for home design, driveway and carport. Replacing windows and doors would be costly. Home has already been purchased.

Submitted Public Comment
Carolyn Valdez, 211 Queen Anne Ct – In opposition
Carlos De Luna, 303 Queen Anne Ct – In favor
Dave Isaacs, Funston Pl – In favor
Maria Mcton, 306 Elmhurst – 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.

Chair Oroian asked for a motion for item BOA-20-10300007, as presented

Mr. Oroian made a **motion** for BOA-20-10300007 for approval

"Regarding Case No. BOA-21-10300007, I move that the Board of Adjustment grant a request for variances, b) division of divided line to windows, 2) a 3' variance to the minimum 5' rear setback to allow a detached carport to be 2' from the rear property line, 3) a **2**" variance to the minimum 5' side setback to allow a detached carport to be **3**" from the side property line and 4) a 3' variance to the minimum 15' clear vision requirement to allow a fence to be 12' from the street, situated at 300 Queen Anne Court, applicant being Dave Isaacs, 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 variance to the rear and side setback for a detached carport is not contrary to the public interest.

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.

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 setback is to provide spacing between neighboring structures. The applicant will still maintain adequate space between the carport and the rear and side property lines.

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 do 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 unique circumstances existing on the property are neither due to the general conditions of the district, nor due to the owner, and is not financial in nature. Given the other design standards being consistent with the Neighborhood Conservation District, the requested variances are in line with the character of the neighborhood.

Second: Manna

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

Opposed: None

Motion Granted

Item #11 Appointment of two Board of Adjustment Members to the Planning Commission Technical Advisory Committee for a two-year term.

Motion: Chair Oroian asked for a motion for approval of appointment of two Board of Adjustment members to the Planning Commission Technical Advisory Committee.

Mr. Manna made a **motion** for approval of Board members

Second: Menchaca

Voice vote all in favor, no oppositions.

Motion Granted

Item #12 Discussion, consideration and possible action of current cases to determine need for a Board of Adjustment Special Meeting.

Item #13 Consideration and approval of March 1, 2021 Board of Adjustment meeting minutes.

Motion: Chair Oroian asked for a motion for approval of March 1, 2021 minutes as presented.

Mr. Manna made a **motion** for approval of March 1, 2021 minutes.

Second: Schell

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

Opposed: None

Minutes approved

Adjournment

There being no further business, the meeting was adjourned at 5:57 p.m.

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary