

City of San Antonio



Board of Adjustment Minutes

Development and Business Services
Center
1901 South Alamo

February 17, 2020

1:00PM

1901 S. Alamo

Board of Adjustment Members

A majority of appointive Members shall constitute a quorum.

Roger F. Martinez, District 10, Chair
Alan Neff, District 2, Vice Chair
Donald Oroian, District 8, Pro-Tem

Dr. Zottarelli, District 1 | Reba N. Malone, District 3 | George Britton, District 4 | Maria Cruz, District 5
| Seth Teel, District 6 | Phillip Manna, District 7 | Kimberly Bragman, District 9 |
Andrew Ozuna, Mayor

Alternate Members

Cyra M. Trevino | Anne Englert | Arlene B. Fisher | Frank A. Quijano |
Seymour Battle III | Kevin W. Love | Johnathan Delmer

1:06 P.M. - Call to Order, Board Room

- **Roll Call**
- **Present:** Teel, Zottarelli, Bragman, Cruz, Oroian, Britton, Ozuna, Neff, Manna, Quijano, Martinez, Englert
- **Absent:** Malone

Jaqueline Payan and Cesar Chavez, SeproTec translators were present.

**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*

Pledge of Allegiance

Item #1 **BOA-20-10300001:** A request by Juan Carlos Franco Navarro for a special exception to allow two additional (2) Type 2 short term rental units, permitting a total of three (3) Type 2 short term rental units, located at 2411 Pinn Road. Staff recommends Denial. (Council District 6) (Kayla Leal, Senior Planner (210) 207-0197, kayla.leal@sanantonio.gov, Development Services Department)

Staff stated 24 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition. No response from Cable-Westwood Neighborhood Association.

Angie Rodriguez, 2411 Pinn Rd. – Spoke of request for a special exception to make properties Short Term rentals. Long-time residents were not paying rent and destroying property.

No Citizens appeared to speak

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-19-10300001, as presented

Mr. Oroian made a **motion** for BOA-19-10300001 for approval

“Regarding Case No. BOA-20-10300001, I move that the Board of Adjustment grant a special exception to allow for **(2) additional** Type 2 short term rental unit, situated at 2411 Pinn Road, applicant being Carlos Franco, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

1. *The special exception will not materially endanger the public health or safety.*
The Board finds that the request to operate a short term rental is unlikely to materially endanger the public health, safety, or welfare. The subject property appears to be well-kept and has a wrought iron fence and gated access the property. There is nothing obvious that would distinguish a short term rental versus a long term rental at this facility.
2. *The special exception does not create a public nuisance.*
The applicant has received a handful of code violations pertaining to property maintenance, and has complied with every one causing them to be closed by code enforcement. Therefore, a public nuisance does not seem likely to be created.
3. *The neighboring property will not be substantially injured by such proposed use.*
The property has no pending code violations. While there is single-family residential abutting to the west, there does seem to be landscaping which may potentially serve as a buffer for the single-family residence. Neighboring properties will not be substantially injured by such proposed use.

4. *Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary faculties have been or are being provided.*

There are about twelve (12) parking spaces provided at the subject property which is required by a multi-family complex. The subject property appeared to have adequate utilities, access, and open space.

5. *The applicant or owner for the special exception does not have any previously revoked short term rental licenses, confirmed citations, or adjudicated offenses convictions for violations of Chapter 16, Article XXII of the City Code within one year prior to the date of the application.*

The applicant currently has one Short Term Rental Permit and does not have any history of revocation, citations, or convictions for violations of Chapter 16.

6. *The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought.*

The multi-family development of eight (8) units has been constructed on the property since 1968 and has been improved through property maintenance, displayed through Google Street View. With access being limited off of Pinn Road, the special exception does not appear to alter the essential character of the district and location in which the property is seeking the special exception."

Second: Mr. Teel

In Favor: Oroian, Teel, Zottarelli, Bragman, Cruz, Britton, Ozuna, Neff, Manna, Quijano, Martinez

Opposed: None

Motion Granted

Mr. Oroian stepped out of the **Board of Adjustment** meeting at 1:38 pm, recusing himself from case BOA-19-10300002. **Ms. Englert** joined the board to review the case.

- Item # 2** **BOA-20-10300002:** A request by Mark Johnson for a special exception to allow a fence to be up to 6' tall in the front yard, located at 5700 Northwest Parkway. Staff recommends Approval. (Council District 8) (Dominic Silva, Senior Planner (210) 207-0120, dominic.silva@sanantonio.gov, Development Services Department)

Staff stated 11 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition. Not located within a registered Neighborhood Association.

Mark Johnson, Civil Engineer, 5700 Northwest Parkway – Spoke of need of the fence to secure the property of HEB campus.

No Citizens appeared to speak

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-19-10300002, as presented

Ms. Cruz made a **motion** for BOA-19-10300002 for approval

“Regarding Case No. BOA 20 10300002, I move that the Board of Adjustment grant a special exception to allow a fence to be up to 6’ tall in the front yard, situated at 5700 Northwest Parkway, applicant being Mark Johnson, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

1. The special exception will be in harmony with the spirit and purpose of the chapter.

The UDC states the Board of Adjustment can grant a special exception for a fence height modification up to six feet. The additional fence height is intended to provide safety and security of the applicant’s corporate campus facility and for the direction of traffic flow safely. If granted, this request would be in harmony with the spirit and purpose of the ordinance.

2. The public welfare and convenience will be substantially served.

In this case, these criteria are represented by maximum fence heights to protect commercial property owners while still promoting a sense of community. A 6’ tall predominately open fence is proposed along the front property to provide additional security for the applicant’s property. This is not contrary to the public interest.

3. The neighboring property will not be substantially injured by such proposed use.

The fence will create enhanced security for the subject property and is highly unlikely to injure adjacent properties as other properties within the industrial, technology, and university park has similar fences to provide enhanced security and safety. Further, the fencing does not violate Clear Vision standards.

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 business district. The fencing is in line with other preexisting fencing material and height within the immediate vicinity.

5. The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district. The current zoning permits the current use.”

Second: Mr. Manna

In Favor: Cruz, Manna, Teel, Zottarelli, Bragman, Englert, Britton, Ozuna, Neff, Quijano, Martinez

Opposed: None

Motion Granted

Ms. Englert left the **Board of Adjustment** meeting at 1:48 pm. **Mr. Oroian** rejoined the board at 1:48 pm.

Item #3

BOA-20-10300003: A request by Brian Kolodziej for a special exception to allow a fence to be up to 8' tall in the side and rear yard, located at 3115 Sable Creek. Staff recommends Approval. (Council District 9) (Justin Malone, Planner (210) 207-0157, justin.malone@sanantonio.gov, Development Services Department)

Staff stated 17 notices were mailed to property owners within 200 feet, 0 returned in favor, and 1 returned in opposition. Evans Ranch Neighborhood Association in opposition.

Applicant requested a continuance until the **March 16th** Board of Adjustment meeting.

Following Citizens appeared to speak

Ken Albrecht - said he would return on March 16th to speak

Motion: Chair Martinez asked for a **motion** to continue item BOA-19-10300003 to March 16, 2020 Board of Adjustment meeting.

Members voted in the affirmative

Motion Granted

Chair Martinez called for the **Board of Adjustment** to take a recess at 1:50 pm. Board resumed at 2:06 pm.

Item #4

BOA-20-10300013: A request by John Hertz regarding an appeal of the Historic Preservation Officer's decision to issue a Certificate of Appropriateness, located at 335 Trail. Staff recommends Denial. (Council District 1) (Dominic Silva, Senior Planner (210) 207-0120, dominic.silva@sanantonio.gov, Development Services Department)

Staff stated 41 notices were mailed to property owners within 200 feet, 2 returned in favor, and 0 returned in opposition. 6 outside the 200' radius were in favor. Not located within a registered Neighborhood Association.

Mark Cannan, 700 N St. Mary's – Spoke on behalf of Mr. Hertz. Spoke of request for the appeal. The new buildings do not follow the character of the Historic neighborhood.

John Hertz, 125 Anastasia St. – The new buildings will bring more traffic and noise. New buildings do not reinforce the basic features of the area, which are single story buildings.

James McKnight, 112 E. Pecan – Representing property owner. Several adjustments were made to meet the guidelines of HDRC. There were 8 HDRC meetings before approval.

Following Citizens appeared to speak

Virginia Van Cleif, 9118 Fairland – Spoke in favor of the appeal

William Sibley, 535 E. Craig Pl. – Spoke in favor of the appeal

Chad Carey, 102 E. Huisache – Spoke in opposition of the appeal

Margaret Leeds, 308 King William – Spoke in favor of the appeal
Lucy Wilson, 130 Magnolia Dr. – Spoke in favor of the appeal
Blanquita Sullivan, 831 E. Magnolia Ave. – Spoke in favor of the appeal
Myfe Moore, 603 River Rd. – Spoke in favor of the appeal
Richard Reed, 615 River Rd. – Spoke in favor of the appeal
Larry Clark, 102 Allison Dr. – Spoke in favor of the appeal
Raleigh Wood, 109 Lindell – Spoke in favor of the appeal
Theresa Berlanga, 164 El Monte – Spoke in opposition of the appeal
Anne Larme, 850 E. Magnolia – Spoke in opposition of the appeal

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-19-10300013, as presented

Dr. Zottarelli made a **motion** for BOA-19-10300013 to be continued.

“Regarding Case No. BOA 20 10300013, I move that the Board of Adjustment grant an appeal of the Historic Preservation Officer’s decision to issue a Certificate of Appropriateness for the property at 335 Trail, applicant being John Hertz.”

Second: Mr. Teel

In Favor: Zottarelli, Teel, Oroian, Britton, Ozuna, Neff, Manna, Quijano

Opposed: Bragman, Cruz, Martinez

Motion Failed

Chair Martinez called for a revote for item BOA-19-10300013, as presented

Dr. Zottarelli made a **motion** to revote on item BOA-19-10300013

Second: Mr. Teel

In Favor: Zottarelli, Teel, Cruz, Oroian, Britton, Ozuna, Neff, Manna, Quijano, Martinez

Opposed: Bragman

Motion Granted

Item #5**Consideration and approval of the February 3, 2020 Board of Adjustment Minutes.**

Chair Martinez **motioned** for approval of the February 3, 2020 as presented.
Members voted in the affirmative.

Director's Report:

Municipal Leadership Institute mini meeting will be held as a work session before the March 2, 2020 Board of Adjustment meeting.

At the end of the meeting **Mr. Neff** announced he was resigning from the Board of Adjustment. He wants to use his time to concentrate on his family and his work.

Adjournment

There being no further business, the meeting was adjourned at 4:33 p.m.

APPROVED BY: Rosa F. Martinez OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: [Signature] DATE: March 5, 2020
Executive Secretary