

City of San Antonio



Board of Adjustment Minutes

Development and Business Services
Center
1901 South Alamo

July 6, 2020

1:00PM

Videconference

Board of Adjustment Members

A majority of appointive Members shall constitute a quorum.

Roger F. Martinez, District 10, Chair
Dr. Lisa Zottarelli, District 1, Vice Chair
Donald Oroian, District 8, Pro-Tem

Vacant, District 2 | Andrew Menchaca, District 3 | George Britton, District 4 |
Maria Cruz, District 5 | Seth Teel, District 6 | Phillip Manna, District 7 |
Kimberly Bragman, District 9 | Andrew Ozuna, Mayor

Alternate Members

Cyra M. Trevino | Anne Englert | Arlene B. Fisher | Vacant |
Seymour Battle III | Kevin W. Love | Jonathan Delmer

1:03 P.M. - Call to Order

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

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-19-10300162:** A request by David Ranjbar for 1) a 5' variance from the 10' Type A landscape bufferyard requirement to allow a bufferyard to be 5' along the south property line, 2) a 5' variance from the 15' Type B landscape bufferyard requirement to allow a bufferyard to be 10' along the north property line, 3) a 5' variance from the 15' Type B landscape bufferyard requirement to allow a bufferyard to be 10' along the east property line, 4) a 10' variance from the 15' Type B landscape bufferyard requirement to allow a bufferyard to be 5' along the west property line, and 5) a 5' variance from the required 10' side setback to allow a structure to be built 5' from the west property line, located at 105 Stratford Court. (Council District 3) (Dominic Silva, Senior Planner (210) 207-0120, Dominic.Silva@sanantonio.gov, Development Services Department)

Item # 2 **(Continued from 06/15/2020) BOA-20-10300032:** A request by Silvia Torres Castaneda for 1) a 6' variance from the required 10' front setback for a carport to be 4' away from the front property line, and 2) a 3'7" variance from 5' required side setback for a carport to be 1'5" away from the side property line, located at 1002 S Pine Street. Staff recommends Denial. (Council District 2) (Azadeh Sagheb, Planner (210) 207-5407, Azadeh.Sagheb@sanantonio.gov, Development Services Department)

Staff stated 36 notices were mailed to property owners within 200 feet, 1 returned in favor, and 0 returned in opposition. The Denver Heights Neighborhood Association is in favor.

Silvia Torres Castaneda, 1002 S. Pine St. – Requesting to keep the carport to protect her vehicles from damage.

Submitted Public Comment

Michael Bauman, 1000 S Pine St. – In favor

Aubry Lewis, Denver Heights NA President – In favor

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

Motion: Chair Martinez asked for a motion for item BOA-20-10300032, as presented

Mr. Oroian made a **motion** for BOA-20-10300032 for approval

“Regarding Case No. BOA-20-10300032, I move that the Board of Adjustment grant a request for 1) a 6' variance from the required 10' front setback for a carport to be 4' away from the front property line, and 2) a 3'7" variance from 5' required side setback for a carport to be 1'5" away from the side property line, situated at 1002 South Pine Street, applicant being Silvia Torres Castaneda, 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 instance, the variance is not contrary to the public interest. The carport has been in place with no complaints from neighboring properties and proper mitigation of storm water is being utilized. The structure provides room for maintenance and will not create water runoff to adjacent property.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
Literal enforcement of the ordinance would result in the applicant removing the carport from the side and front setback. This would result in unnecessary financial hardship.
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*
Granting the variance request will result in substantial justice as the requested setbacks will still provide for a safe development pattern. The request provides fair and equal access to air, light, and adequate fire separation.
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.*
If the requested variances are approved, the attached carport structure will not alter the 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. Due to the layout of the existing driveway and limited size of the lot, establishing the carport would need approval due to the limited amount of space within the side property.”

Second: Mr. Teel

In Favor: Oroian, Teel, Zottarelli, Delmer, Cruz, Ozuna

Opposed: Fisher, Menchaca, Manna, Bragman, Martinez

Motion Fails

Chair Martinez asked for a motion to reconsider item BOA-20-10300032

Ms. Bragman made a **motion to reconsider** BOA-20-10300032

Second: Ms. Fisher

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

Opposed: Menchaca

Motion to reconsider Granted

A friendly motion was made by **Mr. Manna** to item BOA-20-10300032

“Regarding Case No. BOA-20-10300032, I move that the Board of Adjustment grant a request for 1) a 6’ variance from the required 10’ front setback for a carport to be 4’ away from the front property line, and 2) a 2’ variance from 5’ required side setback for a carport to be 3’ away from the side property line, situated at 1002 South Pine Street, applicant being Silvia Torres Castaneda, 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.”

Second: Mr. Oroian

In Favor: Manna, Oroian, Fisher, Cruz, Teel, Bragman, Martinez

Opposed: Zottarelli, Menchaca, Delmer, Ozuna

Friendly Motion Fails

Chair Martinez asked for a second to Mr. Oroian’s original motion to BOA-20-10300032

“Regarding Case No. BOA-20-10300032, I move that the Board of Adjustment grant a request for a 3’7” variance from 5’ required side setback for a carport to be 1’5” away from the side property line, situated at 1002 South Pine Street, applicant being Silvia Torres Castaneda, 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.”

Second: Mr. Ozuna

In Favor: Oroian, Ozuna, Zottarelli, Cruz, Teel, Martinez

Opposed: Fisher, Menchaca, Delmer, Manna, Bragman

Original Motion Failed

Item #3 **BOA-20-10300054**: A request by Fabian Carrillo for a special exception to allow a registration of a one-operator beauty/barber shop within a single-family residence, located at 219 Vista Del Sur Street. Staff recommends Approval. (Council District 5) (Azadeh Sagheb, Planner (210) 207-5407, Azadeh.Sagheb@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. No response from the Historic Westside Residents Association.

Fabian Carrillo, 219 Vista Del Sur St. – Spoke of request for special exception to run a one-operator salon out of home. Would work by appointment only.

Public Comments

Carlos M. Rodriguez, 215 Vista Del Sur – In favor

Carlos Rios, 206 Vista Del Sur – In opposition

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

Motion: Chair Martinez asked for a motion for item BOA-20-10300054, as presented

Ms. Bragman made a **motion** for BOA-20-10300054 for approval

“Regarding Case No. BOA-20-10300054, I move that the Board of Adjustment grant a special exception to allow a new registration of a one-operator beauty shop within a single family residence, with limited hours of Tuesdays through Fridays from 10:00 am to 7:00 pm., and Saturdays from 9:00 am. to 5:00 pm, by appointment only, situated at 219 Vista Del Sur, applicant being Fabian Carrillo, 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 purpose of the review is to ensure that the operation of one-operator beauty/barber shop does not negatively impact the character of the neighborhood. The applicant has fulfilled all requirements for a one-operator shop as established in the Unified Development Code. As such, staff finds that the special exception will be in harmony with the purpose of the chapter.
2. *The public welfare and convenience will be substantially served.*
Public welfare and convenience will be served as it will provide a valuable service to the residents of the neighborhood. The applicant has proposed the hours of Tuesdays through Fridays from 10:00 am to 7:00 pm., and Saturdays from 9:00 am. to 5:00 pm, by appointment only.

3. *The neighboring property will not be substantially injured by such proposed use.*
The subject property will be primarily used as a single-family residence. The beauty/barber shop will occupy only a small portion of the main structure, as required by the UDC, and the fact that a beauty shop is being operated from the home will likely be indiscernible to passersby. As such, neighboring properties will not be substantially injured.
4. *The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought.*
The requested special exception is not likely to alter the essential character of the district as the property is still used as a residential building.
5. *The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district.*
The primary use of the dwelling remains a single-family home. The granting of this special exception will not weaken the purposes of the residential zoning district.”

Second: Ms. Cruz

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

Opposed: None

Motion Granted

Mr. Martinez called for the Board of Adjustment to take a recess at 2:41 PM. The Board of Adjustment resumed at 2:50 PM.

Item #4 **BOA-20-10300042:** A request by Maria Luisa Cantu for a special exception to allow one (1) Type 2 Short Term Rental, located at 215 Terry Court. Staff recommends Denial. (Council District 1) (Kayla Leal, Senior Planner (210) 207-0197, kayla.leal@sanantonio.gov, Development Services Department)

Staff stated 21 notices were mailed to property owners within 200 feet, 0 returned in favor, and 4 returned in opposition. The Tobin Hill Community Association is in opposition. 1 property owner outside of the 200’ notification boundary opposed.

Maria Luisa Cantu, 215 Terry Court – Spoke of request for a special exception to allow her to use her home as a short term rental. Wishes to keep the home, renting it out and then eventually moving in to it later. It is her family’s home and would be careful who rents.

Public Comment

Christopher Indelicato, 211 Terry Court – In opposition

Patricia Reck & Bryan Burns, 217 Terry Court – In opposition

Martin Kushner, 405 E Myrtle – In opposition

Paulina Quezada, 443 E French – In opposition

Sam & Susanne Aguirre, 456, 462, & 466 E French Pl. – In opposition

Rick Schell, THCA Zoning & Development Committee Chair – In opposition

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

Motion: Chair Martinez asked for a motion for item BOA-20-10300042 as presented

Mr. Oroian made a **motion** for BOA-20-10300042 for approval.

“Regarding Case No. BOA-20-10300042, I move that the Board of Adjustment grant a special exception to allow for (1) Type 2 short term rental unit, situated at 215 Terry Court, applicant being Maria Luisa 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 not materially endanger the public health or safety.*
The Board finds that the request to operate a short term rental is unlikely to materially endanger the public health, safety, or welfare. The subject property appears to be well-kept and recently renovated. There is nothing obvious that would distinguish a short term rental versus a long term rental at this facility.
2. *The special exception does not create a public nuisance.*
The Board finds that there are a total of twelve (12) residential units on this blockface and the special exception would permit a total of three (3) Type 2 short term rentals, resulting in 25% of the blockface. This allows reason to believe a public nuisance does not seem likely to be created.
3. *The neighboring property will not be substantially injured by such proposed use.*
The neighboring properties consist of single family residential uses, but the subject property is located in close proximity to North St. Mary’s Street which is a commercial corridor. The proposed unit also does not provide reason to believe it will substantially injure neighboring property as a Type 2 Short Term Rental.
4. *Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary faculties have been or are being provided.*
The Board finds the subject property to provide off-street parking and appears to have adequate utilities, access, and open space.
5. *The applicant or owner for the special exception does not have any previously revoked short term rental licenses, confirmed citations, or adjudicated offenses convictions for violations of Chapter 16, Article XXII of the City Code within one year prior to the date of the application.*
The applicant currently does not currently hold a Short Term Rental Permit and does not have any history of revocation, citations, or convictions for violations of Chapter 16.

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

The subject property is located north of downtown and in close proximity to commercial uses and other residential uses. With the property owner providing off-street parking, the special exception does not appear to alter the essential character of the district and location in which the property is seeking the special exception.”

Second: Ms. Bragman

In Favor: Oroian, Bragman, Teel, Martinez

Opposed: Zottarelli, Fisher, Menchaca, Delmer, Cruz, Manna, Ozuna

Motion Failed

Item #5

BOA-20-10300040: A request by Debra Sharp from the Beacon Hill Neighborhood Conservation design standards for 1) a 11’11” variance from the maximum 12’ driveway width to allow a 23’11” driveway width, 2) a 14’ variance from the maximum 15’ curb cut width to allow a maximum of a 29’ curb cut, and 3) a 20% variance from the 50% front yard impervious cover limitation to allow 70% of the front yard to be impervious cover, located at 902 West Gramercy Place. Staff recommends Denial. (Council District 1) (Dominic Silva, Senior Planner (210) 207-0120, Dominic.Silva@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 the Beacon Hill Neighborhood Association.

Debra Sharp, 902 West Gramercy Pl. – Spoke on behalf of her Son, Jackie Sharp. Seeking variance requests to keep driveway to allow him to have a place to park his vehicle.

No Public comment

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

Motion: Chair Martinez asked for a motion for item BOA-20-10300040, as presented

Mr. Oroian made a **motion** for BOA-20-10300040 for approval.

“Regarding Case No. BOA-20-10300040, I move that the Board of Adjustment grant a request from the Beacon Hill Neighborhood Conservation design standards for 1) a 11’11” variance from the maximum 12’ driveway width to allow a 23’11” driveway width, 2) a 14’ variance from the maximum 15’ curb cut width to allow a maximum of a 29’ curb cut, and 3) a 20% variance from the 50% front yard impervious cover limitation to allow 70% of the front yard to be impervious cover, situated at 902 West Gramercy Place, applicant being Debra Sharp, 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 impervious coverage limitation preserves storm water management by reducing runoff and increasing storm water travel times. Further, the regulations are provided to prevent front yards from being covered by impervious surfaces, which can detract from the character of the community. The Board finds the request is not 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 result in increased street parking, thereby creating 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 impervious coverage limitation requirements is to prevent water flooding within the property and to preserve the character of the community. All intents of the code shall be observed if approved.
4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the zoning district in which the variance is located.*
The variance will not authorize the operation of a use other than those uses specifically authorized in the zoning district.
5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*
The requested variance will not substantially injure adjacent conforming properties as the amount of impervious coverage is in line with other properties within 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 plight of the owner extends from lack of parking space within the property, as well as lack of parking on the side of the residence, leaving to owner to increase impervious coverage in order to utilize off-street parking as intended.”

Second: Dr. Zottarelli

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

Opposed: Menchaca

Motion Granted

Mr. Delmer left the Board of Adjustment meeting at 4:42 pm.

Item #6 **BOA-20-10300053:** A request by Orange Bison Enterprises, LLC for 1) a 663 square foot variance from the 4,000 square foot minimum lot size limitation to allow a lot size to be 3,337 square feet and 2) a 4'6" variance from the 10' minimum rear setback to allow a structure to be 5'6" from the rear property line, and 3) a 2'6" variance from the required 20' minimum separation between garage entrance to property line to allow a garage entrance to be located 17'6" away from the front property line, located at 110 Kearney Street. Staff recommends Approval. (Council District 1) (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, 1 returned in favor, and 0 returned in opposition. The Lavaca Neighborhood Association is in opposition.

Thomas Stamp, 110 Kearney St. – Spoke of variance requests to rebuild structure destroyed by Hurricane Harvey. New structure would be in compliance with character of neighborhood and would add beauty to area.

Public comment

Darryl Ohlenbusch, UTSA College of Architecture, Lavaca NA – In opposition
T.W. Buck, 123 Kearney St. – In favor

Motion: Chair Martinez asked for a motion for item BOA-20-10300053, as presented

Mr. Teel made a **motion** for BOA-20-10300053 for approval.

“Regarding Case No. BOA-20-10300053, I move that the Board of Adjustment grant 1) a 663 square foot variance from 4,000 square foot minimum lot size requirement to allow a lot size to be 3,337 square feet and 2) a 4'6" variance from the 10' minimum rear setback to allow a structure to be 5'6" from the rear property line, and 3) a 2'6" variance from the required 20' minimum separation between garage entrance to property line to allow a garage entrance to be located 17'6" away from the front property line, situated at 110 Kearney, applicant being Orange Bison Enterprises, LLC, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

1. *The variance is not contrary to the public interest.*
The public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by lot size that maintain neighborhood character and given the lot constraints, granting the variances still provides adequate accessibility to light, air, and open space.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
The unnecessary hardship relates to the fact that if the variance is not granted, the applicant will not be able to build on this site and the property will be kept vacant. It creates hardship on the neighbors who do not enjoy a vacant lot beside them.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done. The property on this variance relates to an arbitrary lot created long ago prior to the current owner's purchase. The owner acquired the property with the current specific size and has invested time and effort for its development.*
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.*
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 subject property and the adjacent properties are residential. Further, since it is the same residential use, this variance would not substantially injure or alter the use or character of adjacent conforming property or 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. This is created by the proliferation of older, outdated substandard lots."

Second: Mr. Oroian

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

Opposed: None

Motion Granted

Item #7 Consideration and approval of the June 15, 2020 Board of Adjustment Minutes.

Motion: Chair Martinez asked for a motion for approval of the June 15, 2020 minutes as presented.

Mr. Manna made a **motion** for approval of June 15, 2020 minutes.

Second: Mr. Oroian

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

Opposed: None

Minutes Approved

Staff mentioned the rest of the summer Board of Adjustment meetings will be held by videoconference.

Adjournment

There being no further business, the meeting was adjourned at 5:00 p.m.

Board of Adjustment**July 6, 2020**

APPROVED BY: Roger F. Matias OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: Melissa Rany DATE: 8/18/2020
Executive Secretary