

City of San Antonio



Draft

Board of Adjustment Minutes

Development and Business Services

Center

1901 South Alamo

May 3, 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

1:00 P.M. - Call to Order

- Roll Call

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

- Absent: Britton, Teel

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 (Continued from 04/19/2021) BOA-21-10300031: A request by Lee Mangum for 1) a 14'11" variance from the 15' Type B landscape bufferyard requirement to allow a bufferyard to be 1" along the north property line, and 2) a 9'11" variance from the 10' Type A landscape bufferyard requirement to allow a bufferyard to be 1" along the east property line, located at 1511 Northwest Crossroads. Staff recommends Approval. (Council District 6) (Azadeh Sagheb, Planner (210) 207-5407, Azadeh.Sagheb@sanantonio.gov, Development Services Department)

Staff stated 16 notices were mailed to property owners within 200 feet, 0 returned in favor, and 1 returned in opposition. No registered Neighborhood Association.

Lee Mangum, Pape-Dawson Engineers, 2000 NW Loop 410 – Requesting bufferyard variance for a new Information Technology building. The new landscape will not obscure the security view.

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-20-10300031, as presented

Mr. Manna made a **motion** for BOA-20-10300031 for approval

“Regarding Case No. BOA-21-10300031, I move that the Board of Adjustment grant a request for 1) a 14'11" variance from the 15' Type B landscape buffer yard requirement to allow a buffer yard to be 1" along the north property line, and 2) a 9'11" variance from the 10' Type A landscape buffer yard requirement to allow a buffer yard to be 1" along the east property line, situated at 1511 Northwest Crossroads, applicant being Lee Mangum, 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 buffer yard will be used to set up the fence and security cameras. The requested variances are not contrary to public interest.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
The spirit of the ordinance is the intent of the code, rather than the strict letter of the law. Planting the trees within the buffer yards would visually impede camera security system and allow people to climb over fencing. A literal enforcement would result in unnecessary hardship.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done. The requested variances along the north and south property line will not create cluttered views. The applicant is keeping the existing trees and planting canopy and understory trees behind the landscape bufferyard. 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 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 subject property is abutting a similar facility. The requested variances to move the buffer yard vegetation further into the property and behind the buffer area will not substantially injure the appropriate use of adjacent conforming 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 plight of the property owner is not for financial reasons and not due to the result of the general conditions of the site. This data center requires unique security system and planting vegetation within the buffer area would impact its security.”

Second: Cruz

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

Opposed: None

Motion Granted

Item #2

BOA-21-10300038: A request by Edgar Murillo for a special exception to exceed the Type 2 Short Term Rental density limitation to allow one Type 2 Short Term Rental Permit, located at 908 Camaron Street. Staff recommends Denial. (Council District 1) (Kayla Leal, Senior Planner (210) 207-0197, kayla.leal@sanantonio.gov, Development Services Department)

Staff stated 19 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition. 1 in favor outside 200 feet. No response from the Lavaca Neighborhood Association.

Edgar Murillo, 3007 Old Henry, Laredo, TX – Requesting a special exception to allow for a Type 2 short term rental property. Property has been renovated and furnished. The property is located within walking distance to downtown.

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-20-10300038, as presented

Mr. Oroian made a **motion** for BOA-20-10300038 for approval

“Regarding Case No. BOA-20-10300038, I move that the Board of Adjustment grant a special exception to allow for (1) Type 2 short term rental unit, situated at 908 Camaron Street, Unit 2, applicant being Edgar Murrillo, 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. There is nothing evident that would distinguish a short term rental versus a long term rental at this property and it has been previously operated as a short term rental.
2. *The special exception does not create a public nuisance.*
The Board finds that there are a total of six (6) residential units on this blockface and the special exception would permit a total of two (2) Type 2 short term rentals, resulting in 33.3% of the blockface.
3. *The neighboring property will not be substantially injured by such proposed use.*
The neighboring properties consist of single-family residences and duplexes. The subject property is located in close proximity to downtown and the highway. This unique scenario does not cause 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 subject property provides 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 holds 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 in close proximity to commercial, recreational, and other residential uses. With the property owner providing off-street parking and maintaining it from the neighboring property, 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: Ozuna

In Favor: Oroian, Ozuna, Battle, Fisher, Cruz, Bragman, Delmer, Trevino

Opposed: Schell, Menchaca, Manna

Motion Fails

Item #3

BOA-21-10300014: A request by Jennifer Rodriguez for 1) a 9’9” variance from the minimum 10' front setback to allow a carport to be 3” from the front property line and 2) a 1’11” variance from the minimum 5’ side setback to allow a carport with an 8” overhang to be 3’1” from the side property line, located at 2403 Mission Forest. Staff recommends Denial with an Alternate Recommendation. (Council District 6) (Joyce Palmer, Planner, 210-207-0315, Joyce.Palmer@sanantonio.gov, Development Services Department)

Staff stated 42 notices were mailed to property owners within 200 feet, 3 returned in favor, and 0 returned in opposition. No response from Neighborhood Associations within 200’ of property (Crown Meadows West and Townhomes Owner Association).

Jennifer Rodriguez, 2403 Forest – Requesting setback variances to allow her to keep the constructed carport. The carport is needed to protect the investments of their vehicles.

Submitted Public Comment

Mario & Alba Pena, 2347 Mission Forest – In favor

Christopher & Tiffany Nichols, 2407 Mission Forest – In favor

Claudia & Galdino Sanchez, 2351 Mission Forest – 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-20-10300014, as presented

Mr. Ozuna made a **motion** for BOA-20-10300014, as presented

“Regarding Case No. BOA-21-10300014, I move that the Board of Adjustment grant a request for a 4’ variance from the minimum 10’ front setback requirement to allow a carport to be 6’ away from the front property line, and a 1’11” variance from the minimum 5’ side setback to allow a carport with an 8” overhang to be 3’1” from the side property line, situated at 2403 Mission Forest, applicant being Jennifer Rodriguez, 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 front setback encroachment of the carport is contrary to the public interest as there are only 3” space between the carport and the property line.
The alternate recommendation of a 4’ variance will keep carport 6’ away from front property line which is not contrary to the public interest.
The public interest is defined as the general health, safety, and welfare of the public. 1’ 11” encroachment into the side setback for the metal 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 alternate recommendation of a 4’ variance will provide 6’ of space between the carport and the front property line and will not create unnecessary hardship for the property owner.
Allowing the property owner to maintain a 3’ 11” side setback will not create unnecessary hardship; the property owner will be able to maintain space and allow access on their side property without changing the current carport width and side setback.
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*
The alternate recommendation of a 4’ variance would still provide some space between the structure and the right of way. The side setback requirement is to allow space and access between adjacent properties, and a reduced side setback of 3’1” would provide enough space for access between adjacent properties.
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 of a variance to allow a 3” front setback will alter the essential character of the district.
With the alternate recommendation of 6’ front setback, the carport would be 18’ deep and can accommodate property owner’s vehicles, while maintaining the character of the surrounding neighborhood. The Board finds that having a lesser side setback for the subject carport does not pose immediate risk to adjacent properties and leaves enough room for maintenance of the structure.

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

The Board is unable to determine unique circumstances existing on the site to have a lesser front setback. The alternate recommendation would respect the intent of the code. The Board finds that the plight of the owner is 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.”

Second: Cruz

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

Opposed: None

Motion Granted

Item #4

BOA-21-10300035: A request by Jenny Hernandez for a 1,340 square foot variance to the “R-4” minimum 4,000 square foot lot size requirement to allow the construction of a single-family dwelling, located at 305 Grenet Street. Staff recommends Approval. (Council District 5) (Mirko Maravi, Senior Planner, 210-207-0107, Mirko.Maravi@Sanantonio.gov, Development Services Department)

Staff stated 21 notices were mailed to property owners within 200 feet, 1 returned in favor, and 0 returned in opposition. No response from the Historic Westside Residents Association.

Jenny Hernandez, 305 Grenet – Requesting variance to allow for the construction of a single family home.

Submitted Public Comment

Sebastian & Carmen Guerrero, 311 Grenet – 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-20-10300035, as presented

Ms. Cruz made a **motion** for BOA-20-10300035 for approval

“Regarding Case No. BOA-21-10300035, I move that the Board of Adjustment grant a request for A request for a 1,340 square foot variance to the “R-4” minimum 4,000 square foot lot size requirement to allow the construction of a single-family dwelling, situated at 305 Grenet Street, applicant being Jenny Hernandez, 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 the lot constraints, granting the variances still provides adequate accessibility to light, air, and open space. The neighborhood is predominantly surrounded by single-family residential with proximity to Tafolla Middle School and Lanier High School. A new residential dwelling will add to the wellbeing of the surrounding community.

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 unnecessary hardship. In the absence of variances, the intended redevelopment will not be possible. The lot square footage is below the minimum code requirement, so any development on the lot will require variances.

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. Approving the requested variances will not detract from the intent of the ordinance to provide safety, beauty, and quality of life in the neighborhood. All intents of this law will be observed.

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 would not substantially injure or alter the use or character of adjacent conforming property or character of the district. There are various substandard sized lots on the block and surrounding neighborhood. The variances would not alter the essential character of the vicinity.

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. Abutting lots are in the 100 year flood plain and as configured, cannot be utilized without a lot size variance.”

Second: Bragman

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

Opposed: None

Motion Granted

Item #5

Consideration and approval of April 19, 2021 Board of Adjustment meeting minutes.

Motion: Chair Oroian asked for a motion for approval of April 19, 2021 with amendment to roll call.

Ms. Cruz made a **motion** for approval of April 19, 2021 minutes with amendment.

Second: Manna

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

Opposed: None

Ms. Trevino was not present for the April 19th meeting and did not make a motion for the minutes.

Minutes approved with amendment

Adjournment

There being no further business, the meeting was adjourned at 2:35 p.m.

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary

DRAFT