

City of San Antonio



Board of Adjustment Minutes

Development and Business Services
Center
1901 South Alamo

April 5, 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

1:02 P.M. - Call to Order

- **Roll Call**
- **Present:** Schell, Menchaca, Cruz, Manna, Bragman, Delmer, Fisher, Trevino, 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*

Ms. Cruz joined the Board of Adjustment meeting at 1:10 pm.

Item # 1 **(POSTPONED) 21-10300014:** A request by Jennifer Rodriguez for a 4' variance, from the minimum 10' front setback to allow a carport to be 6' from the front property line and a 2' variance from the minimum 5' side setback to allow a carport to be 3' from the side property line, located at 2403 Mission Forest. (Council District 6) (Joyce Palmer, Planner, 210-207-0315, Joyce.Palmer@sanantonio.gov, Development Services Department)

Item #2 **BOA-21-10300015:** A request by The Rock Fellowship/All Nations Worship Assembly for a 16' sign variance to allow the single-tenant signage to be 40' tall, located at 8235 Vicar Drive. Staff recommends Approval. (Council District 2) (Azadeh Sagheb, Planner (210) 207-5407, Azadeh.Sagheb@sanantonio.gov, Development Services Department)

Staff stated 10 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition. No Neighborhood Association.

Cathy & Mark Song, 8235 Vicar Drive – Requesting a variance to allow the use the existing pole for the church sign. Using the existing pole will allow for the sign to be visible from the highway.

Kevin Duhart, 8235 Vicar Drive – The area around property is not very busy, the higher sign will make it easier for people to find the church.

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-20-10300115, as presented

Mr. Manna made a **motion** for BOA-20-10300115 for approval

“Regarding Case No. BOA-210-10300015, I move that the Board of Adjustment grant request for a sign variance allow the single-tenant signage to be 40' tall, situated at 8235 Vicar Drive, applicant being The Rock Fellowship/All Nations Worship Assembly, 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 necessary because strict enforcement of this article prohibits any reasonable opportunity to provide adequate signs on the site, considering the unique features of a site such as its dimensions, landscaping, or topography, or*

2. *A denial of the variance would probably cause a cessation of legitimate, longstanding active commercial use of the property.*

The requested variance for an additional 16' height will conform to the existing commercial feature of the surrounding area. It also preserves the non-conforming status of the existing pole.

3. *After seeking one or more of the findings set forth in subparagraphs (1) and (2), the Board finds that:*
- A. *Granting the variance does not provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.*
Adding a cabinet to an existing 40' tall pole to use it as a single-tenant signage will not distract the character of surrounding commercial properties. The proposed sign will not block any existing business, similar height signs within the area.
- B. *Granting the variance will not have a substantially adverse impact on neighboring properties.*
Located along with a commercial collector road, and the commercial character of the surrounding area, a taller single-tenant signage will not distract the harmony of the surrounding properties which consists of commercial, industrial and office buildings.
- C. *Granting the variance will not substantially conflict with the stated purposes of this article.*
The requested sign height variance will not conflict with the stated purpose of the chapter.

Second: Ozuna

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

Opposed: None

Motion Granted

Item #3 **BOA-21-10300016:** A request by Lewis Martin for a 143' variance from minimum 200' tower setback requirement to allow the Antenna support structure to be 57' away from a residential zoned property, located at 10000 Block of Culebra Road. Staff recommends Approval. (Council District 6) (Azadeh Sagheb, Planner (210) 207-5407, Azadeh.Sagheb@sanantonio.gov, Development Services Department)

Staff stated 7 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition. No response from the Mountain View Acres Neighborhood Coalition located within 200', no Neighborhood Association.

Lewis Martin, 10000 Block of Culebra Rd – Requesting variance to allow for an antenna support structure at proposed location. The property is narrow and does not have space to put tower in the front of property.

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-20-10300016, as presented

Ms. Fisher made a **motion** for BOA-20-10300016 for approval

“Regarding Case No. BOA-210-10300016, I move that the Board of Adjustment grant request for a 143’ variance from minimum 200’ tower setback requirement to allow the Antenna support structure to be 57’ away from a residential zoned property, situated at 10000 Block of Culebra Road, applicant being Lewis Martin, 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 requested variance to have a lesser setback for the Antenna supporting structure is seeking to provide a better wireless service for the community which is not contrary to the public interest.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
Due to the fact that subject lot in its entirety is not wide enough to meet the 200’ spacing requirement, staff finds that 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 spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. The intent of the setbacks is to provide spacing between neighboring structures. Considering the proposed car service on the lot, the placement of the Cell Tower has been proposed to allocated adequate space for the future development. The adjacent residential zoned property is primarily used as a church and the spirit of the ordinance 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.*
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 approval of the 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 neighborhood is primarily commercial containing service type businesses, and the proposed Cell Tower will blend in with this type of community.

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 were not created by the owner of the property and are not merely financial. The odd geometry of the lot is not wide enough to be in compliance with the UDC requirement.”

Second: Manna

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

Opposed: None

Motion Granted

Ms. Bragman left the Board of Adjustment meeting at 1:47 pm.

Item #4

BOA-21-10300019: A request by Xabula LLP for 1) a 10’6” variance from the minimum 20’ rear setback requirement to allow the new addition to be 9’6” away from the rear property line, and 2) a 1’10” variance from the minimum 5’ side setback requirement to allow the structure to be 3’2” away from the side property line, located at 3022 El Paso Street. Staff recommends Approval. (Council District 5) (Azadeh Sagheb, Planner (210) 207-5407, Azadeh.Sagheb@sanantonio.gov, Development Services Department)

Staff stated 34 notices were mailed to property owners within 200 feet, 0 returned in favor, and 1 returned in opposition. No response from the Prospect Hill Neighborhood Association.

Alfred Hockley, 3022 El Paso St – Requesting setback variances to allow for the addition to the home and the placement of the exterior water heater closet. The addition adds room to the originally small home. The addition will add value to property.

Submitted Public Comment

Mario & Virginia Arrambide, 3026 El Paso St – 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-20-10300019**, as presented

Mr. Ozuna made a **motion** for **BOA-20-10300019** for approval

“Regarding Case No. BOA-21-10300019, I move that the Board of Adjustment grant a request for 1) a 10’6” variance from the minimum 20’ rear setback requirement to allow the new addition to be 9’6” away from the rear property line, and 2) a 1’10” variance from the minimum 5’ side setback requirement to allow the **water heater** structure to be 3’2” away from the side property line, situated at 3022 El Paso Street, applicant being Xabula LLP, 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 requested variance for the constructed new addition is not contrary to public interest as there is 9’6” space between the subject property and the rear property line. Reducing the side setback by 1’10” to accommodate an enclosed water heater closet within the side yard would not cause any adverse effect.
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. Having a lesser rear setback seems to be common in the neighborhood and both structures have already been built and if the variances are not granted the structures would have to be demolished or modified.
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 and enclosed water heater closet are 9’6” and 3’2” away from the property lines respectively that leaves adequate space for long term maintenance without trespassing.
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 rear and 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.
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.”

Second: Cruz

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

Opposed: Menchaca

Motion Granted

Item #5

BOA-21-10300018: A request by Mary O'Connor for a variance to the garage minimum setback of 20' to allow a garage to be 11' away from the side property line, located at 1604 El Monte Blvd. Staff recommends Approval. (Council District 1) (Mirko Maravi, Senior Planner, 210-907-0107, Mirko.Maravi@sanantonio.gov, Development Services Department)

Staff stated 36 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition. No registered Neighborhood Association.

Bridget O'Connor, 1604 El Monte Boulevard – Requesting variance to replace existing garage with a new garage. The new garage will be a 2-car garage.

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-20-10300018, as presented

Ms. Fisher made a **motion** for BOA-20-10300018 for approval

“Regarding Case No. BOA-21-10300018, I move that the Board of Adjustment grant a request for a variance to the garage minimum setback of 20’ to allow a garage to be 11’ away from the side property line, situated at 1604 El Monte Blvd, applicant being Mary O'Connor, 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 garage driveway variance of 9'-0" is not contrary to the public interest.

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

In the absence of the variance no reasonable use may be made of the property because the gas meter prevents construction any further into the lot than the current location of the garage.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*
The proposed garage will be used for the same purpose as the current garage. It is not for a special privilege. The current garage is showing signs of decay and a new building is needed to protect vehicles and garden tools.
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 proposed variance will not be for any use other than those uses specifically authorized for the district. It is currently a garage and will continue to be used as a garage.
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 or alter the essential character of the neighborhood. 11 foot driveway will not injure adjacent properties as it still has room to park a vehicle in the driveway inside the 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 location of the gas meter prevents construction any further into the lot than the current location of the garage.”

Second: Manna

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

Opposed: None

Motion Granted

Item #6 **BOA-21-10300012:** A request by Iram Ramirez for a 4’ 8” variance from the minimum 5’ side setback requirement to allow a carport with 2” gutters to be 4” away from the side property line, located at 746 Brunswick Boulevard. Staff recommends Denial with an Alternate Recommendation. (Council District 3) (Kayla Leal, Senior Planner (210) 207-0197, kayla.leal@sanantonio.gov, Development Services Department)

Staff stated 40 notices were mailed to property owners within 200 feet, 1 returned in favor, and 0 returned in opposition. No registered Neighborhood Association.

Iram Ramirez, 746 Brunswick Blvd – Requesting setback variance to allow for the carport to be 4” away from the side property line. The carport was built similar to surrounding residences. Does not have the budget to begin the process over.

Submitted Public Comment

Juan Mireles, 749 Brunswick – 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-20-10300012, as presented

Mr. Manna made a **motion** for BOA-20-10300012 for approval

“Regarding Case No. BOA-21-10300012, I move that the Board of Adjustment grant a request for a 4’ 8” variance from the minimum 5’ side setback requirement to allow a carport with 2” gutters to be 4” away from the side property line, situated at 746 Brunswick Boulevard, applicant being Iram Ramirez, 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 request to allow a carport encroachment into the side setback is not contrary to the public interest as the applicant has adequate space from the adjacent structure.
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. By imposing a literal enforcement, the carport width would need to be adjusted to 11’ which would minimize space for a vehicle.
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 setbacks is to provide spacing between neighboring structures which is observed.
4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*
The variance will not authorize the operation of a use other than those uses specifically authorized by the district.
5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*
The request to reduce a portion of 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. This property is located within an older neighborhood, and there are many non-conforming carports built encroaching into the side setbacks.

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

The Board finds that the plight of the property owner is sought due to the unique circumstances existing on the property due to the short width of available space for the carport.”

Second: Schell

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

Opposed: None

Motion Granted

Ms. Bragman returned to the Board of Adjustment meeting at 2:59 pm.

Item #7 **BOA-21-10300013:** A request by Adolfo Mijares for a 1,160 square foot lot size variance from the minimum 4,000 square foot requirement to allow a lot to be 2,840 square feet, located at 330 Utah Street. Staff recommends Approval. (Council District 2) (Kayla Leal, Senior Planner (210) 207-0197, kayla.leal@sanantonio.gov, Development Services Department)

Staff stated 31 notices were mailed to property owners within 200 feet, 1 returned in favor, and 0 returned in opposition. No response from Denver Heights Neighborhood Association.

Adolfo Mijares, 330 Utah St – Requesting a variance for square foot lot size to allow for a new residential property.

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-20-10300013, as presented

Mr. Teel made a **motion** for BOA-20-10300013 for approval

“Regarding Case No. BOA-21-10300013, I move that the Board of Adjustment grant a request for a 1,160 square foot lot size variance from the minimum 4,000 square foot requirement to allow a lot to be 2,840 square feet, situated at 330 Utah Street, applicant being Adolfo Mijares, 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 being requested is for the lot size of the property in order to be developed with a single-family home.

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. By imposing a literal enforcement, the property owner would need to apply to rezone the property and have it platted.

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 subject property is in an older-developed community, so many of the lots are non-conforming and do not meet the minimum lot size.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*

The variance will not authorize the operation of a use other than those uses specifically authorized by the district.

5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*

The request to allow a 2,840 square foot lot 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. The Board finds many of the lots in the surrounding area are under the minimum lot size and developed with single-family dwellings.

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

The Board finds the unique circumstances existing on the property were not created by the owner of the property and are not merely financial. The lot is currently vacant and does not meet the minimum lot size of the current code.”

Second: Bragman

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

Opposed: None

Motion Granted

Chair Oroian called for the Board of Adjustment to take a recess at 3:13 pm. The Board of Adjustment returned at 3:22 pm.

Item #8 **BOA-21-10300017**: A request by Michael Robert Macey for a 240 square foot variance from the maximum accessory detached dwelling unit limit of 800 square feet to allow an accessory detached dwelling unit to be 1040 sq.ft., located at 14022 Susancrest Drive. Staff recommends Approval. (Council District 9) (Kayla Leal, Senior Planner (210) 207-0197, kayla.leal@sanantonio.gov, Development Services Department)

Staff stated 22 notices were mailed to property owners within 200 feet, 3 returned in favor, and 1 returned in opposition. No response from Canyon Parke HOA.

Michael Macey, 14022 Susan Crest – Requesting variance to build an accessory detached dwelling unit. Lower level will be used for aircraft storage and second level will be an apartment.

Submitted Public Comment

Cindy Ash, 350 E. Sunset Rd – In opposition

David Ash, 350 E Sunset Rd – In opposition

Richard Guzman, 14019 Susan Crest Dr – In favor

Shirley Fowler, 630 Heimer Rd – In favor

William Pearson, 14102 Susan Crest Dr – 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-20-10300017, as presented

Ms. Bragman made a **motion** for BOA-20-10300017 for approval

“Regarding Case No. BOA-21-10300017, I move that the Board of Adjustment grant a request for a 240 square foot variance from the maximum accessory detached dwelling unit limit of 800 square feet to allow an accessory detached dwelling unit to be 1,040 square feet, situated at 14022 Susancrest Drive, applicant being Michael Robert Macey, 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 request is for an Accessory Detached Dwelling Unit with a square footage to exceed the 800 square foot maximum, as it is being proposed to be built on the second floor. The variance is not contrary to the public interest as there are other structures in the area that are of similar size.

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. By imposing a literal enforcement of the code, the accessory dwelling would be limited to 800 square feet. The ground floor area does not exceed the 50% limitation of the rear and side yard.
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 proposed structure appears to observe the spirit of the ordinance as it does not exceed 50% of the rear and side yard and has a square footage under 40% of the total floor area of the primary structure.
4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*
The variance will not authorize the operation of a use other than those uses specifically authorized by the district.
5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*
The request to increase the square footage of the ADDU 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 Board finds that with the location and size of the subject property, it appears the plight of the owner of the property is due to unique circumstances existing on the property and are not merely financial in nature.”

Second: Cruz

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

Opposed: None

Motion Granted

Item #9 **BOA-21-10300010:** A request by David McKay for a special exception to allow a back yard fence and side yard fence to be 8’ tall, located at 4906 Babson Street. Staff recommends Approval. (Council District 8) (Joyce Palmer, Planner, 210-207-0315, Joyce.Palmer@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 Neighborhood Association.

David McKay, 4906 Babson – Requesting a special exception to allow for he back yard fence to be 8’ tall. The house behind is higher and looks into the house. The height will only be visible from the front, on both sides.

Submitted Public Comment

Walt Williamson, 14026 Syracuse – In favor

Jim Knebel, 4907 Babson St -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-20-10300010, as presented

Mr. Ozuna made a **motion** for BOA-20-10300010 for approval

“Regarding Case No. BOA-21-10300010, I move that the Board of Adjustment grant 1) a special exception to allow a side and back yard fence to be 8’ tall, situated at 4906 Babson, applicant being David McKay, 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 of 2’ 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 and will not be 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: Teel

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

Opposed: None

Motion Granted

Item #10 **BOA-21-10300022:** A request by Catalina Chavez for a variance from the Ingram Hills Neighborhood Conservation District fencing requirements to allow a predominately open front yard fence to be 5’ 8” tall, located at 3907 and 3911 West Horseshoe Bend. Staff recommends Denial. (Council District 7) (Kayla Leal, Senior Planner (210) 207-0197, kayla.leal@sanantonio.gov, Development Services Department)

Staff stated 12 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition. The Ingram Hills Neighborhood Association is not opposed.

Catalina Chavez, 3907 & 3911 W Horseshoe Bend – Requesting variance for the front yard fence. The fence will be for protection and privacy of property.

Submitted Public Comment

Mike Phillips, Ingram Hills 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.

Chair Oroian asked for a motion for item BOA-20-10300022, as presented

Mr. Manna made a **motion** for BOA-20-10300022 for approval

“Regarding Case No. BOA-21-10300022, I move that the Board of Adjustment grant a request for a variance to the Ingram Hills Neighborhood Conservation District fencing requirements to allow 1) a predominately open front yard fence to be 5’ 3” tall for 3907 West Horseshoe Bend and 2) a predominately open front yard fence to be 5’ 8” tall for 3911 West Horseshoe Bend, situated at 3907 and 3911 West Horseshoe Bend, applicant being Catalina Chavez, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

1. *The variance is not contrary to the public interest.*
The public interest is defined as the general health, safety, and welfare of the public. The variance being requested is for the front yard fencing of the lots located at 3907 and 3911 West Horseshoe Bend. Other fences in the surrounding area appear to be of similar design and height, so the fencing does not detract from the character of the district.
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 fence is allowable by the Unified Development Code and is not out of character for the neighborhood.
4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*
The variance will not authorize the operation of a use other than those uses specifically authorized by the district.
5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*
The request to allow the fence height does not seem likely to pose a risk of substantially injuring the use of adjacent properties and does may seem likely to alter the essential character of the district. Many of the lots in the surrounding area have predominately open front yard fencing.
6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial and are not due to or the result of general conditions in the district in which the property is located.*
The Board finds the unique circumstances existing on the property were not created by the plight of the owner and are not merely financial as residential permits were issued in 2019.”

Second: Schell

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

Opposed: None

Motion Granted

Item #11 Discussion, consideration and possible action of current cases to determine need for a Board of Adjustment Special Meeting.

Item #12 Consideration and approval of March 15, 2021 Board of Adjustment meeting minutes.

Motion: Chair Oroian asked for a motion for approval of March 15, 2021 minutes as presented, with amendment to include the names and positions for nominations for PTAC.

Mr. Manna made a **motion** for approval of March 15, 2021 minutes with corrections.

Second: Schell

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


Ms. Trevino abstained from voting due to not being present for the March 15th Board of Adjustment meeting.

Opposed: None

Minutes approved

Adjournment

There being no further business, the meeting was adjourned at 4:13 p.m.

APPROVED BY:  OR _____
Chairman Vice-Chair

DATE: 5-17-2021

ATTESTED BY: Melissa Ramirez DATE: May 17, 2021
Executive Secretary