

City of San Antonio



Draft

Board of Adjustment Minutes

Development and Business Services
Center
1901 South Alamo

September 16, 2019

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

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

Alternate Members

Cyra M. Trevino | Vacant | Arlene B. Fisher | Eugene A. Polendo |
Vacant | Vacant

1:00 P.M. - Call to Order, Board Room

- Roll Call
- Present: Rodriguez, Neff, Britton, Dr. Zottarelli, Bragman, Cruz, Teel, Manna, Oroian, Bragman, Martinez, Polendo, Trevino
- Absent: Malone

Gabriela Barba and Maria E. Murray, 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

The Board of Adjustment went in to Executive Session

The time is now 1:12 pm on **September 16, 2019**. The Board of Adjustment of the City of San Antonio will now convene in executive session pursuant to the Texas Government Code, Attorney Client consultation (Section 551.071).

The Board of Adjustment returned from Executive Session to the open meeting.

The time is now 1:29 pm on **September 16, 2019**. The Board of Adjustment of the City of San Antonio will now reconvene in open session. No official action was taken in executive session.

- Item # 2** **BOA-19-10300089**: A request by JD Dudley for 1) a 14'6" variance from the 15' Type B landscape bufferyard requirement to allow a bufferyard to be 6" along 90' of the south property line, and 2) a 8' variance from the 15' Type B landscape bufferyard requirement to allow a bufferyard to be 7' along 165' of the south property line, located at 1901 Southwest Military Drive. Staff recommends Denial with an Alternate Recommendation. (Council District 3) (Debora Gonzalez, Senior Planner (210) 207- 3074, debora.gonzalez@sanantonio.gov, Development Services Department)

Staff stated 18 notices were mailed to property owners within 200 feet, 1 returned in favor, and 0 returned in opposition. Property not located within a registered neighborhood association.

JD Dudley, applicant, 1901 SW Military Dr.

The following Citizens appeared to speak

Juan Ramirez, 1112 Rayburn, spoke 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-19-10300089**, as presented

Mr. Oroian made a **motion** for **BOA-19-10300089** for approval

Regarding Appeal No **BOA-19-10300089**, I move that the Board of Adjustment grant 1) a 14'6" variance from the 15' Type B landscape bufferyard requirement to allow a bufferyard to be 6" along 90' of the south property line, and 2) a 8' variance from the 15' Type B landscape bufferyard requirement to allow a bufferyard to be 7' along 165' of the south property line, situated at 1901 Southwest Military Drive, applicant being JD Dudley, 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 requested bufferyards are not contrary to public interest as they do not negatively impact any surrounding properties or the general public. The property does not currently benefit from any bufferyard and even the reduced bufferyard proposed by the applicant will enhance the property. The Board finds the requests are not contrary to the public interest.

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 by requiring the project to be redesigned to meet the required bufferyard requirements. Enforcing the full requirement removes parking spaces which may leave the development with insufficient parking spaces to operate the commercial use.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*
In this case, the reduced bufferyards will enhance the property.

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 requested variances will not authorize the operation of a use on the subject property other than those specifically authorized in 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.*
Although the applicant is seeking to reduce bufferyards required by the code, the provision of landscape bufferyards will still enhance the community and the proposed project.

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 circumstance in this case is that there is currently no existing bufferyard along the south property line.

Second: Mr. Teel

In Favor: None

Opposed: Oroian, Teel, Zottarelli, Bragman, Cruz, Britton, Rodriguez, Neff, Manna, Palendo, Martinez

Motion Fails

- Item # 3** **BOA-19-10300099:** A request by Jennifer Estrada for a special exception to allow a four-year renewal for a one-operator beauty shop in a single family home, located at 226 Allensworth Street. Staff recommends Approval. (Council District 2) (Rachel Smith, Planner (210) 207-5407, rachel.smith@sanantonio.gov, Development Services Department)

Staff stated 36 notices were mailed to property owners within 200 feet, 6 returned in favor, and 1 returned in opposition. No comment from Mahncke Park Neighborhood Association.

Michelle Richardson, 650 Reynosa Downs, spoke on behalf of applicant.

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-19-10300099, as presented

Ms. Cruz made a **motion** for BOA-19-10300099 for approval

Regarding Appeal No. BOA-19-10300099, I move that the Board of Adjustment grant a special exception to allow a four-year renewal for a one-operator beauty shop in a single family home, situated at 226 Allensworth Street, applicant being Jennifer Estrada, 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 requested special exception will be in harmony with the spirit and purpose of the chapter in that the proposed one-operator beauty salon will follow the specified criteria established in Section 35-399.01 in the Unified Development Code.

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

The public welfare and convenience will be served with the granting of this request. The beauty shop provides a valuable and needed public service to the residents of the neighborhood and it will not negatively impact surrounding properties.

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 shop will occupy only one room of the structure and the business volume will be such that it will be unnoticed by the surrounding community. The neighboring properties will not be negatively impacted by the operations of this beauty shop.

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 will not negatively impact the essential character of the Mahncke Park neighborhood or the surrounding properties.

5. *The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district.*

The purpose of the “R-4” residential single family district is to preserve and promote neighborhood centers including stores and community service facilities in a pedestrian-friendly environment. The district is primarily comprised of single family residences. The granting of this special exception will conform to the stated purpose and preserve the existing character of the district.

Second: Mr. Rodriguez

In Favor: Cruz, Rodriguez, Teel, Zottarelli, Bragman, Oroian, Britton, Neff, Manna, Palendo, Martinez

Opposed: None

Motion Granted

Item #4

BOA-19-10300095: A request by Carlos and Esmeralda Campos for a request for 1) a special exception to allow a privacy fence to be up to 8’ tall on the front yard of the front property line, 2) a special exception to allow a privacy fence to be 4’ tall within front yard of the side property lines, 3) a variance from the restriction of metal sheeting and corrugated metal as a fencing material to allow for its use, located at 6618, 6622 and 6614 Marcum Drive. Staff recommends Approval. (Council District 6) (Mirko Maravi, Planner (210) 207- 0107, mirko.maravi@sanantonio.gov, Development Services Department)

Staff stated 29 notices were mailed to property owners within 200 feet, 6 returned in favor, and 0 returned in opposition. Property not within a registered Neighborhood Association.

Michelle Richardson, 650 Ruidosa Downs, spoke on behalf of applicant

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-19-10300095, as presented

Mr. Neff made a **motion** for special exception for BOA-19-10300095 for approval

Regarding Appeal No. BOA-19-10300095, I move that the Board of Adjustment grant 1) a special exception to allow a privacy fence to be up to 8’ tall on the front yard of the front property line, 2) a special exception to allow a privacy fence to be 4’ tall within front yard of the side property lines, situated at 6618, 6622 and 6614 Marcum Drive, applicant being Carlos and Esmeralda Campos, 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 eight feet. The additional fence height is intended to provide safety and security of the applicant's property. If granted, this request would be in harmony with the spirit and purpose of the ordinance.

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

In this case, these criteria are represented by maximum fence heights to protect residential property owners while still promoting a sense of community. A 8' tall closed gate was built in three portions of the front property line with metal sheeting and corrugated metal and a 4' tall privacy fence within the

front yard of the side property line 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 it has been in place for more than 2 years. 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 neighborhood. 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 property is located within the "R-6 MLOD-2 MLR-1 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District and permits the current use. The requested special exception will not weaken the general purpose of the district.

Second: Mr. Britton

In Favor: Neff, Britton, Teel, Zottarelli, Bragman, Cruz, Oroian, Rodriguez, Palendo

Opposed: Manna, Martinez

Motion Passes

Motion: Chair Martinez asked for a motion for item BOA-19-10300095, as presented

Mr. Neff made a **motion** for variance BOA-19-10300095 for approval

Regarding Appeal No. BOA-19-10300095, I move that the Board of Adjustment grant 3) a variance from the restriction of metal sheeting and corrugated metal as a fencing material to allow for its use, situated at 6618, 6622 and 6614 Marcum Drive, applicant being Carlos and Esmeralda Campos, 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 fence will be built with metal sheeting and corrugated metal. The fence is consistent with the neighboring homes. If granted, this request would be harmony with the spirit and purpose of the ordinance.

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

Allowing the applicant to construct up to 8' metal fence will help create a safe and private environment while maintaining consistency. Therefore, the public welfare and convenience will be substantially served.

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

Granting the variance will not substantially injure the neighboring properties as the fence will enhance safety and privacy for the subject property and is highly unlikely to injure adjacent properties.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the district in which the request for a 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 up to 8' metal fence contributes to the character of the community. The fence will not impose any immediate threat to adjacent properties.

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 circumstance in this case is that the new fence was built with a combination of fence materials not exposing the edges of the metal sheeting. It is difficult to establish how the request could harm adjacent owners or detract from the character of the community.

Second: Mr. Rodriguez

In Favor: Neff, Rodriguez, Teel, Zottarelli, Bragman, Cruz, Oroian, Britton, Palendo

Opposed: Manna, Martinez

Motion Granted

Item #5

BOA-19-10300100: A request by Chris Madrid's for special exception for an 8' tall privacy fence along the north and east property lines, located at 1900 Blanco Road. Staff recommends Approval. (Council District 1) (Debora Gonzalez, Senior Planner (210) 207- 3074, debora.gonzalez@sanantonio.gov, Development Services Department)

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

Richard Peacock, 1900 Blanco Rd, spoke about the need for the fence to control noise level from the residents.

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-19-10300100, as presented

Mr. Rodriguez made a **motion** for BOA-19-10300100 for approval

Regarding Appeal No. BOA-19-10300100, I move that the Board of Adjustment grant a special exception for an 8' tall privacy fence along the north and east property lines, situated at 1900 Blanco Road, applicant being Chris Madrid's, 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 8'. The additional fence height is intended to screen noise and provide privacy for the residents. 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 residential property owners while still promoting a sense of community. The fence height will be built along the north and east property lines screening noise and providing privacy for the residents. This is not contrary to the public interest.

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

No adjacent property owner, nor the traveling public, will be harmed by the proposed fence.

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 8' fence along the north and east property lines would not significantly alter the overall appearance of the district and would screen noise and provide added privacy for outdoor patio uses.

5. *The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district.* **The purpose of the fencing standards is to protect the health, safety, and general welfare of the public. The special exception request is to allow an 8' fence along the north and east property lines in order to screen noise and provide privacy for the residents. Therefore, the requested special exception will not weaken the general purpose of the district.**

Second: Mr. Manna

In Favor: Rodriguez, Manna, Teel, Zottarelli, Bragman, Cruz, Oroian, Britton, Neff, Polendo, Martinez

Opposed: None

Motion Passes

Item #6

BOA-19-10300098: A request by Dustin Brisco for a 4'9" variance from the 5' side yard setback requirement to allow an attached patio and cover to be 3" from the side yard property line, located at 618 Dawson Street. Staff recommends Approval. (Council District 2) (Dominic Silva, Senior Planner (210) 207- 0120, dominic.silva@sanantonio.gov, Development Services Department)

Staff stated 28 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition. No response from Dignowity Hill Neighborhood Association.

Robert Fulco, 618 Dawson St., spoke on behalf of applicant

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-19-10300100, as presented

Mr. Oroian made a **motion** for BOA-19-10300098 for approval

Regarding Appeal No. BOA-19-10300098, I move that the Board of Adjustment grant a 4'9" variance from the 5' side setback to allow an attached patio and cover to be 3" from the side yard property line, situated at 618 Dawson Street, applicant being Dustin Brisco, 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 patio cover is not contrary to public interest as it does not negatively impact any surrounding properties or the general public. The patio cover will not be noticeable to the passersby as it is located in the rear of the property.

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

Literal enforcement of ordinance would result in the applicant removing not only the portion of the patio cover trespassing into the side setback, but also the deck that serves as the landing pad for the rear entry.

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 requirement rather than the strict letter of the law. The patio cover is not overwhelming in size compared to the principal structure and serves as a landing pad for the rear entry which is located above ground level.*
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 permitted within the property's current base 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 property is located in a historic district characterized by reduced side setbacks and narrow lots. The applicant has obtained an administrative Certificate of Appropriateness and has followed the same characteristics of the principal structure to include roof line and material. Further, the patio cover is located in the rear of the property and will not 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 variance being sought is due to the size constraints of the property in regard to a 5' side setback from the property line. The principal structure is angled noticeably crooked within the property, as the survey shows. Staff notes that most properties on Dawson Street are also angled noticeably crooked within their properties.*

Second: Mr. Britton

In Favor: Oroian, Britton, Teel, Zottarelli, Bragman, Cruz, Rodriguez, Manna, Palendo

Opposed: Neff, Martinez

Motion Passes

Item #7

BOA-19-10300096: A request by Frederic D Wile for a 1) a 4' 6" variance from the 5' side and rear setback requirement to allow a detached storage shed to be 6" from the side and rear yard property line and 2) a 2' 6" variance from the 3' requirement for projecting architectural features to allow overhang to be 6" from the side and rear property lines, located at 306 Callaghan Avenue. Staff recommends Approval. (Council District 1) (Dominic Silva, Senior Planner (210) 207- 0120, dominic.silva@sanantonio.gov, Development Services Department)

Staff stated 30 notices were mailed to property owners within 200 feet, 1 returned in favor, and 0 returned in opposition. No comment from Lavaca Neighborhood Association.

Joel Fickel, 14500 Blanco Rd. spoke on behalf of the applicant

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-19-10300096, as presented

Mr. Teel made a **motion** for BOA-19-10300096 for approval

Regarding Appeal No. BOA-19-10300096, I move that the Board of Adjustment grant 1) a 4' 6" variance from the 5' side and rear setback to allow a detached storage shed to be 6" from the side and rear yard property line, and 2) a 2' 6" variance from the 3' requirement for projecting architectural features to allow an overhang to be 6" from the side and rear property lines, situated at 306 Callaghan Avenue, applicant being Frederic D Wile, 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 proposed shed is not contrary to public interest as it does not negatively impact any surrounding properties or the general public. The shed is minimally visible from the public right-of-way and will not be noticeable to the passersby. A certificate of appropriateness has been obtained to preserve the character of the house and neighborhood.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
Literal enforcement of ordinance would result in the applicant removing the shed entirely. Due to the narrow rear yard, there is no other place in the rear yard that could accommodate a shed.
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 requirement rather than the strict letter of the law. The proposed shed is not overwhelming in size (measuring at 140 square feet) compared to the principal structure and will allow the owner adequate relief in storage space due to the limited space of a 1,200 square foot home.
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 permitted within the property's current base 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 property is located in a historic district characterized by narrow rear yards, small principal structures, and historic setbacks, thus a proposed shed at its current placement will not injure the appropriate use of adjacent conforming properties or alter the character of the district.

Further, the applicant has obtained a certificate of appropriateness for approval to construct the shed that matches the style and character of the neighborhood.

6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located. The variance being sought is due to the size constraints of the rear property in regard to a 5' side and rear setback from the property line. If approved, adequate space will be reserved for setbacks, maintenance of the structure without trespass, and storm water controls. Further, the proposed shed will be out of sight from public right-of-way.*

Second: Dr. Zottarelli

In Favor: Teel, Zottarelli, Bragman, Cruz, Oroian, Britton, Rodriguez, Neff, Manna, Palendo, Martinez

Opposed: None

Motion Passes

Mr. Neff left the Board of Adjustment meeting at 3:43 pm, and was replaced by Ms. Trevino

Item #8

BOA-19-10300101: A request by Damian Benavides from NCD-7 Jefferson Neighborhood Conservation Design standards to allow a detached carport to be in front of the primary façade, located at 446 Alexander Hamilton Drive. Staff recommends Denial. (Council District 7) (Debora Gonzalez, Senior Planner (210) 207- 3074, debora.gonzalez@sanantonio.gov, Development Services Department)

Staff stated 21 notices were mailed to property owners within 200 feet, 0 returned in favor, and 1 returned in opposition. No comment from Jefferson Neighborhood Association.

Damian Benavides, 446 Alexander Hamilton, spoke of his need for the detached carport for protection of his vehicles and the elements.

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-19-10300101, as presented

Mr. Manna made a **motion** for BOA-19-10300101 for approval

Regarding Appeal No. BOA-19-10300101, I move that the Board of Adjustment grant a request from the NCD-7 Jefferson Neighborhood Conservation Design standards to allow a detached carport to be in front of the primary façade, situated at 446 Alexander Hamilton Drive, applicant being Damian Benavides, 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.*

In this case, the public interest is represented by the design requirements intended to provide for consistent development within the Jefferson Neighborhood Conservation District. As such, the board finds that this carport does follow the guidelines as set forth in the design requirements.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship*
A literal enforcement of the ordinance could create unnecessary hardship in the applicant having to redesign the carport.

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

The carport location requirement within the Jefferson Neighborhood Conservation District is to ensure that future development and rehabilitation matches the context of the neighborhood. The Board has determined that the new carport location matches the context of the Jefferson Neighborhood Conservation District and is within design guidelines.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized*
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 board finds that this variance will not substantially alter the essential character of the district in which the property is located as it follows the design requirements of the Jefferson Neighborhood Conservation 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 is due to the odd lot shape with two lot sides becoming narrower towards the back in relation to the building.

Second: Mr. Oroian

In Favor: Britton, Palendo

Opposed: Manna, Oroian, Teel, Zottarelli, Bragman, Cruz, Rodriguez, Trevino, Martinez

Motion Fails

Item #9 **BOA-19-10300102:** A request by Mary Garcia for a 4'6" variance from the 5' side setback requirement to allow for an attached carport to be 6" from the side property line, located at 226 West Bedford Avenue. Staff recommends Denial. (Council District 5) (Rachel Smith, Planner (210) 207-5407, rachel.smith@sanantonio.gov, Development Services Department)

Staff stated 36 notices were mailed to property owners within 200 feet, 3 returned in favor, and 0 returned in opposition. No response from Thompson Neighborhood Association.

Tim & Mary Garcia, 226 W. Bedford, spoke of the need for the carport for protect from the elements. And was available for questions.

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-19-10300102, as presented

Mr. Oroian made a **motion** for BOA-19-10300102 for approval

Regarding Appeal No. BOA-19-10300102, I move that the Board of Adjustment grant 4'6" variance from the 5' side setback requirement to allow for an attached carport to be 6" from the side property line, situated at 226 W Bedford Ave, applicant being Mary Garcia, 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 proposed carport will not negatively impact the surrounding community and is not contrary to the public interest. While there are primarily side carports, the community does have a few existing carports to the front of the property.

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

The existing driveway and attached carport is built at 1 inch from the side setback and constitute a special condition. The denial of the proposed carport which would provide additional protection from weather events for their vehicles would constitute an unnecessary hardship for the owner.

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. Granting the variance will allow the applicant to be consistent with the character of the property.

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 permitted within the property's current base 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 Board finds that the carport, as designed, does not harm adjacent property owners and does not 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 plight of the owner is due to the location of the driveway, which leaves inadequate room for a carport of any substantial size.

Second: Mr. Rodriguez

In Favor: Oroian, Rodriguez, Teel, Zottarelli, Bragman, Cruz, Britton, Trevino, Manna, Palendo, Martinez

Opposed: None

Motion Passes

- Item #10 **BOA-19-10300103:** A request by Jose Neri for a 4' variance from the 5' side setback to allow a carport to be 1' from the front property line, located at 355 Kendalia Avenue. Staff recommends Denial with an Alternate Recommendation. (Councill District 3) (Mirko Maravi, Planner (210) 207-0107, mirko.maravi@sanantonio.gov, Development Services Department)

Staff stated 10 notices were mailed to property owners within 200 feet, 2 returned in favor, and 0 returned in opposition. Property not within a registered neighborhood association.

Jose Neri, applicant, 355 Kendalia, applicant spoke of the need of the carport for shading

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-19-10300103, as presented

Mr. Palendo made a **motion** for BOA-19-10300103 for approval

Regarding Appeal No BOA-19-10300103, I move that the Board of Adjustment grant a 4' variance from the 5' side setback to allow a carport to be 1' from the front property line, situated at 355 Kendalia Avenue, applicant being Jose Neri, 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 required setbacks to ensure equal access to air, light, and distance for fire separation, including the protection of vehicles from weather conditions.

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

Literal enforcement of the ordinance would require that the applicant removes the carport posts that infringes into the side setback which 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.

The spirit of the ordinance is the intent of the Code, which in this case, is the allowance for the protection of vehicles under adequate shelter. The intent of the setback limitation is to prevent fire spread, allow adequate space for maintenance, and encourage proper storm water drainage. By granting the variance, the spirit and intent of the code will be observed.

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

The variance will not authorize the operation of a use other than those uses specifically authorized by 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 Board finds that the carport, as designed, does not harm adjacent property owners and does not 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 plight of the owner is due to the house not having a built in garage and location of the driveway, which leaves inadequate room for a carport of any substantial size.

Second: Mr. Manna

In Favor: Palendo, Manna, Teel, Zottarelli, Bragman, Cruz, Oroian, Britton, Rodriguez, Trevino, Martinez

Opposed: None

Motion Passes

Item # 11 Consideration and Approval of the Minutes from September 16, 2019

Chair Martinez **motioned** for approval of the September 15th minutes as corrected and all the Members voted in the affirmative.

Director's Report: Status of Board Appointments

Adjournment

There being no further business, the meeting was adjourned at 4:40 p.m.

DRAFT

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary

DRAFT