

City of San Antonio



**Draft**

**Board of Adjustment Minutes**

Development and Business Services  
Center  
1901 South Alamo

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**March 4, 2019**

**1:00PM**

**1901 S. Alamo**

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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 | Jorge Calazo | Arlene B. Fisher | Eugene A. Polendo  
| Roy A. Schauffele | Vacant

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

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

Item # 2 BOA-19-10300003: A request by Matthew Garcia for an 8' variance from the 20' rear setback requirement to allow an attached addition to be 12' from the rear property line, located at 231 Oelkers Street. Staff recommends Approval. (Council District 5)

Staff stated 39 notices were mailed to property owners within 200 feet, 0 returned in favor, and 1 returned in opposition and no response from the Lone Star Neighborhood Association.

Matthew Garcia, 231 Oelkers Street, wishes to remodel with an open floor plan and use as his residence and possibly to sell in the future.

**No Citizens appeared to speak.**

**Motion**

Chair Martinez asked for a motion for item # BOA-19-10300003 as presented.

Motion: Ms. Cruz made a motion to approve the case BOA-19-10300003

Regarding Appeal No BOA-19-10300003, a request for an 8' variance from the 20' rear setback requirement to allow an addition to be 12' from the rear property line, situated at 231 Oelkers Street, applicant being Matthew Garcia.

I move that the Board of Adjustment grant the applicant's request for the variances to the subject property as described above, 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 existing structure is 12' away from the rear property line and the addition aligns with the existing footprint. The Board finds the request is not contrary to the public interest.**

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

**A literal enforcement of the ordinance would result in unnecessary hardship by requiring the existing deck to be moved to meet the rear setback.**

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

**The intent of rear setback is to create an open area without crowding of structures and to establish uniform development standards to protect the rights of property owners. The addition will not significantly disrupt uniformity and will not injure the rights of adjacent property owners.**

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 addition will not detract from the neighborhood as the addition will not deviate from the existing side setbacks and further, the rear addition is unlikely to go noticed. Specifically, the variance would not place the structures out of character within the community. Many homes within this community were built prior to the establishment of required 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 unique circumstance in this case is the original dwelling layout on the lot which restricts the owner's ability to construct any addition without encroaching into the rear setbacks. This issue is not merely financial in nature.**

Second: Mr. Teel

In Favor: Cruz, Teel, Neff, Trevino, Polendo, Fisher, Britton, Bragman, Manna, Oroian Martinez

Opposed: None

Motion Granted

Item # 3 BOA-19-10300006: A request by Sean Dykes for 1) a 3' variance from the 5' side setback requirement to allow for a new house to be 2' away from the side property line and 2) a 1,270 square foot variance from the minimum 6,000 square foot lot size to allow a lot size to be 4,730 square feet, located at 163 East Lambert Street. Staff recommends Approval. (Council District 5)

Staff stated 34 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition and no response from the Lone Star Neighborhood Association.

Sean T. Dykes, 163 E. Lambert St, explained the details of the property and answered all of Mr. Oroian's questions. This variance will aid him in the design of the property.

**No Citizens appeared to speak**

#### **Motion**

Chair Martinez asked for a motion for item BOA-19-10300006, as presented.

Mr. Teel made a motion for BOA-19-10300006 for approval.

Regarding Appeal No BOA-19-10300006, a request for 1) a 2' variance from the 5' east side setback requirement to allow for a new house to be 3' away from the east side property line and 2) for an 1,270 square foot variance from the minimum 6,000 square foot lot size to allow a lot size to be 4,730 square feet, situated at 163 East Lambert Street, applicant being Sean Dykes.

I move that the Board of Adjustment grant the applicant's request for the variances to the subject property as described above, 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 minimum lot sizes that provide for consistent development within the neighborhood. The "R-6" Residential Single-Family District is intended for single-family dwelling uses on a minimum lot size of 6,000 square feet. The side setback reduction will provide room for maintenance without trespass and accessibility to light air and open space. The proposed project of detached single-family dwelling meets the intentions of the zoning district and is not contrary to the public interest.**

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

**The literal enforcement of the ordinance would not allow the owner of the property to develop the lot as intended. The lot qualifies for a Certificate of Determination (COD) due to the property having an antiquated plat. In order for new construction, the property must be platted, but because the lot qualifies for a COD the applicant will not need to replat the lot. However, a COD cannot be granted, because the property does not meet the minimum 6,000 square foot lot size requirement, and a single-family dwelling cannot be constructed unless a variance is granted.**

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

**Granting the request will result in substantial justice, because the proposed development of detached single-family dwellings advances the efforts of the zoning designation. The variance will promote infill development on this lot.**

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 surrounding single-family dwellings will not be injured by granting the variance, because the lot size will not create incompatible development, nor will it detract from the character of the community. The character of the surrounding neighborhood will not be altered and the proposed development will be cohesive with the existing pattern of development within the immediate 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 unique condition present is that the lot has never been platted and in order to construct on the property there must be a plat exception approved. A plat exception cannot be approved unless a variance is granted to allow for a smaller lot size to develop single-family dwelling units.

Second: Mr. Neff

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

Opposed: Fisher

Motion Granted

Item #4 BOA-19-10300007: A request by Juana Alonso for 1) a 4'11" variance from the 5' side setback to allow a carport to be 1" from the side property line, 2) a 9'11" variance from the 10' front setback to allow a carport to be 1" from the front property line, and 3) a 49.9% variance from the 50% front yard impervious cover limitation to allow 99.9% of the front yard to be covered in impervious cover, located at 4139 Sunrise Creek Drive. Staff recommends Denial. (Council District 2)

Staff stated 50 notices were mailed to property owners within 200 feet, 3 returned in favor, and 0 returned in opposition and no response from the Sunrise Neighborhood Association.

Juana Alonso, 4139 Sunrise Creek Drive, stated she needed the carport to protect her vehicle from the weather. She also stated it was dangerous to park on the street.

Luis Faracas, 1135 Woodlawn, engineer, stated no permits were pulled for prior construction and will follow the code and that the carport is in keeping with the neighborhood.

## Motion

### No Citizens appeared to speak

Chair Martinez asked for a motion for case BOA-19-10300007, as presented.

Motion: Mr. Neff made a motion for BOA-19-10300007 for approval.

Regarding Appeal No BOA-19-10300007, a request for 1) a **1'** variance from the 5' side setback to allow a carport to be **4"** from the **south** side property line, 2) a 9'11" variance from the 10' front setback allow a carport to be 1" from the front property line, and 3) a **40%** variance from the 50% front yard impervious cover limitation to allow **90%** of the front yard to be covered in impervious cover, situated at 4139 Sunrise Creek Drive, applicant being Juana A. Alonso.

I move that the Board of Adjustment grant the applicant's request for the variances to the subject property as described above, 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 served by setbacks, which help to provide consistent development within the City of San Antonio. The applicant is seeking a variance to allow the carport to remain 4 feet from the south side and 1 inch front property line property lines. Allowing the carport to stay as built will not create inconsistency and will not differ from other properties in the neighborhood. The impervious coverage limitation preserves storm water management by reducing runoff and increasing storm water travel times. The subject property allows the water to drain into the open green area located within the property. The variances requested would not be contrary to the public interest.

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

Literal enforcement would require the owner to remove about 40% of concrete in the front yard and the owner will have to move the carport to comply with Code.

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

The spirit of the ordinance is the intent of the code, rather than the strict letter of the law. The requested setback will still provide for a safe development pattern. The intent of the impervious coverage limitation requirements is to prevent water flooding and to preserve the character of the community.

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.*

If the requested variances are approved, the carport and porch will not have a negative impact on the neighboring properties as it does not interfere with Clear Vision. The impervious coverage mitigates the amount of storm water retained on-site. Therefore, the requested variances will not injure adjacent property owners.

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 requested variance still mitigates water issues with the impervious coverage exceeding the 50% limitation and the carport does not interfere with Clear Vision.

Motion: Mr. Neff made a motion to approve the case BOA-19-10300007

Second: Mr. Oroian

In Favor: Neff, Oroian, Polendo, Trevino, Fisher, Cruz, Teel

Opposed: Manna, Bragman, Britton, Martinez

Motion Failed

Motion: Mr. Manna made a motion to reconsider case BOA-19-10300007

Second: Mr. Oroian

A voice vote was taken and was not unanimous therefore roll call vote was taken.

In Favor: Manna, Neff, Oroian, Polendo, Trevino, Fisher, Cruz, Martinez

Opposed: Teel, Bragman, Britton,

Motion Failed

Item # 5 BOA 19-10300008 a request by Juana Vaquera for a 4' variance from the 5' side setback requirement to allow for a detached structure to be 1' from the side property line, located at 1202 Gladstone Street. Staff recommends Denial with an Alternate Recommendation. (Council District 5)

Staff stated 28 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition and no registered neighborhood association.

Juana Vaquera, 1202 Gladstone, stated her intentions for the structure and after further discussion discovered that this case now needed to be heard by the Zoning Commission and could not be heard at this time

**No Action Taken**

**The Board of Adjustment recessed at 2:35pm and reconvened at 2:45pm**

Item # 6 BOA 19-10300009 a request by Adam Carmona for a 4'11" variance from the 5' side setback requirement to allow for an attached patio cover to be 1" from the side property line, located at 3574 Lake Tahoe Street. Staff recommends Denial with an Alternate Recommendation. (Council District 2)

Staff stated 37 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition and no response from the Lake Side Neighborhood Association.

Mr. Carmona worked with a contractor to remedy the issue and is now fire rated. He has spoken to the neighbor who has no problems with this issue.

**No Citizens appeared to speak.**

**Motion**

Chair Martinez asked for a motion for item BOA 19-10300009, as presented.

Motion: Mr. Neff made a motion to approve item BOA 19-10300009

Regarding Appeal No BOA 19-10300009 a request for a 2' variance from the 5' side setback requirement to allow for an existing attached patio cover to be 3' from the side property line, situated at 3574 Lake Tahoe Street, applicant being Adam Carmona.

I move that the Board of Adjustment grant the applicant's request for the variances to the subject property as described above, 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 is not contrary to the public interest as the structure will not create water runoff on the adjacent property and will not injure the rights of the adjacent property owners.**
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*  
**An unnecessary hardship would result from the enforcement of the ordinance as strict enforcement would require the owner of the property to move a portion of the structure and rebuild it within the required setbacks.**
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*  
**Substantial justice will be done as the requested setbacks will still provide for a safe development pattern. The request provides fair and equal access to air and light, and provides for adequate fire separation.**
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 request will not detract from the character of the district. The unit in question is in the side yard, not affecting the public right-of-way. The structure in question does not injure the adjacent 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 unique circumstance existing on the property is that the patio cover about the residence built on a zero lot property line.**

Second: Mr. Oroian

In Favor: Neff, Polendo, Cruz, Teel,

Opposed: Trevino, Manna, Britton, Fisher, Oroian, Bragman, Martinez

Motion Failed



- Item # 7 BOA 19-10300010: A request by Jose Montelongo for 1) a 5' variance from the 10' rear setback requirement to allow a structure to be 5' away from the rear property line, and 2) a 1' variance from the 5' side setback requirement to allow a structure to be 4' away from the side property line, located at 2122 Valencia. Staff recommends Approval. (Council District 5)

Staff stated 41 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition and no response from the Westwood Square Neighborhood Association.

Jesse Caravajar, 1324 Lake Shore Drive, stated a dwelling was built above his garage and is now needing to get variances and will move the post from property line to comply with code.

**No Citizens appeared to speak.**

**Motion**

Chair Martinez asked for a motion for item BOA 19-10300010, as presented.

Motion: Mr. Teel made a motion to approve item BOA 19-10300010.

Regarding Appeal No BOA 19-10300010 request for 1) a 5' variance from the 10' rear setback requirement to allow a detached structure to be 5' away from the rear property line, and 2) a 1' variance from the 5' side setback requirement to allow a detached structure to be 4' away from the side property line, situated at 2122 Valencia, applicant being Jose Montelongo.

I move that the Board of Adjustment grant the applicant's request for the variances to the subject property as described above, 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 is not contrary to the public interest as the structure will not create water runoff on the adjacent property and will not injure the rights of the adjacent property owners.**
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*  
**An unnecessary hardship would result from the enforcement of the ordinance as strict enforcement would require the owner of the property to demolish and rebuild the structure in question.**
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*  
**Substantial justice will be done as the requested setbacks will still provide for a safe development pattern. The request provides fair and equal access to air and light, and provides for adequate fire separation.**
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 request will not detract from the character of the district. The structure in question is in the rear yard, not affecting the public right-of-way. The structure in question does not injure the adjacent 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 unique circumstance existing on the property is that the structure in question has the zoning permitted for a duplex and the structure provides fair and equal access to air and light, and provides for adequate fire separation.**

Second: Ms. Cruz

In Favor: Teel, Cruz, Polendo, Trevino, Fisher, Manna, Oroian, Neff, Bragman, Britton, Martinez

Opposed: None

Motion Granted

Item # 8 BOA-19-10300011: A request by Fisher Heck Architects for 1) a 4'11" variance from the 5' side setback requirement to allow for a detached accessory dwelling unit to be 1" from the side property line, and 2) a 4'11" variance from the 5' rear setback requirement to allow for a detached accessory dwelling unit to be 1" from the rear property line, located at 235 Madison Street. Staff recommends Approval. (Council District 1)

Staff stated 28 notices were mailed to property owners within 200 feet, 1 returned in favor, and 2 returned in opposition and the Kind William Neighborhood Association is opposed.

Elia Moore Sepulveda / David Hannon, 235 Madison St., read a letter into the record about the history of the family and intentions of the property.

**No Citizens appeared to speak.**

### **Motion**

Chair Martinez asked for a motion for item BOA-19-10300011, as presented.

Motion: Mr. Manna made a motion to approve item BOA-19-10300011

Regarding Appeal No BOA-19-10300011, a request for 1) a 4'11" variance from the 5' side setback requirement to allow for a detached accessory dwelling unit to be 1" side from the side property line, and 2) a 4'1" variance from the 5' rear setback requirement to allow for a detached accessory dwelling unit to be 1" from the rear property line, situated at 235 Madison Street, applicant being Fisher Heck Architects.

I move that the Board of Adjustment grant the applicant's request for the variances to the subject property as described above, 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 project seeks to restore a historic artifact within a celebrated historic district, while also transitioning the main house from a rental property into a single family residence. In addition, the feet print of the historic barn and its surviving walls, do not currently interfere with the adjacent property owners and do not extend past the property lines. Overall, the project seeks to return the residence to a proud asset for the neighborhood. 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.*

**Due to the historic existing stone ruins, a literal enforcement of the ordinance would result in unnecessary hardship because the owner would be left with the burdened of the wall's current unusable condition.**

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

**The spirit of the ordinance is the intent of the code, rather than the strict letter of the law. The intent of the setback limitation is to prevent fire spread, allow adequate space for maintenance, and encourage proper storm water drainage. All intents of this law will be observed if approved.**

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

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

**This variance would not substantially injure or alter the use or character of adjacent conforming property or character of the district. Specifically, the variance would not place the structure out of character within the community. Further, the accessory dwelling is highly unlikely to be seen from the public right-of-way.**

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 present in the case is that the property addition has some historical ruins that the owner would like to reuse maintaining its existing location.**

Second: Mr. Neff

In Favor: Manna, Neff, Poleno, Trevino, Fisher, Cruz, Teel, Oroian, Bragman, Britton, Martinez

Opposed: None

Motion Granted

Item # 9 BOA 19-10300012 A request by Jaime Gonzalez for a 2' variance from the 5' side setback requirement to allow a structure to be 3' from the side property line, located at 129 South San Gabriel. Staff recommends Approval. (Council District 5)

Staff stated 39 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition and no response from the Westside Neighborhood Association.

Jaime Gonzalez, 4907 Del Ellen Drive, stated that plans were drawn, and applied for a variance, construction began but there were issues and constructions stopped.

**No Citizens appeared to speak.**

### **Motion**

Chair Martinez asked for a motion for item BOA 19-10300012, as presented.

Motion: Ms. Cruz made a motion for approval on case BOA 19-10300012

Regarding Appeal No BOA 19-10300012 request for a 2' variance from the 5' side setback requirement to allow a structure to be 3' from the side property line, situated at 129 South San Gabriel, applicant being Jaime Gonzalez.

I move that the Board of Adjustment grant the applicant's request for the variances to the subject property as described above, 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 is not contrary to the public interest as the structure will not create water runoff on the adjacent property and will not injure the rights of the adjacent property owners.**

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*  
**An unnecessary hardship would result from the enforcement of the ordinance as strict enforcement would require the owner of the property to demolish and rebuild the structure in question.**
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*  
**Substantial justice will be done as the requested setbacks will still provide for a safe development pattern. The request provides fair and equal access to air and light, and provides for adequate fire separation.**
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 request will not detract from the character of the district. The structure in question is in the rear yard, not affecting the public right-of-way. The structure in question does not injure the adjacent 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 unique circumstance existing on the property is that the structure in question was constructed following the original foot print.**

Second: Mr. Manna

In Favor: Cruz, Manna, Teel, Trevino, Polendo, Fisher, Bragman, Britton, Oroian, Neff, Martinez

Opposed: None

Motion Granted

Item # 10 BOA 19-10300014 a request by Francisco Carmona for a 10' variance from the 20' rear setback requirement to allow for an addition to be 10' from the rear property line, located at 1221 Rivas Street. Staff recommends Approval. (Council District 5)

Staff stated 58 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition and no response from the Westside Neighborhood Association.

Francisco Carmona, 1221 Rivas St. stated he did not pull permits and was cited by code and came to the Board to get a variance.

**The Following Citizens appeared to speak.**

Linda Quintanilla, 1226 Rivas St, spoke in favor

Chair Martinez asked for a motion for item for BOA 19-10300014, as presented.

### **Motion**

Motion: Mr. Oroian made a motion for approval for item for BOA 19-10300014.

Regarding Appeal No BOA 19-10300014 request for a 10' variance from the 20' rear setback requirement to allow for an addition to be 10' from the rear property line, situated at 1221 Rivas Street, applicant being Francisco Carmona.

I move that the Board of Adjustment grant the applicant's request for the variances to the subject property as described above, 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 is not contrary to the public interest as the structure will not create water runoff on the adjacent property and will not injure the rights of the adjacent property owners.**

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

**An unnecessary hardship would result from the enforcement of the ordinance as strict enforcement would require the owner of the property to demolish and rebuild the structure in question.**

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

**Substantial justice will be done as the requested setbacks will still provide for a safe development pattern. The request provides fair and equal access to air and light, and provides for adequate fire separation.**

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 request will not detract from the character of the district. The structure in question is in the rear yard, not affecting the public right-of-way. The structure in question does not injure the adjacent 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 unique circumstance existing on the property is that the lot is compact and the original size of the structure was constructed too small for the lot size.**

Second: Ms. Cruz

In Favor: Oroian, Cruz, Polendo, Trevino, Fisher, Bragman, Britton, Teel, Neff, Martinez

Opposed: None

Motion Granted

**Approval of Minutes**

Item # 11 Consideration and Approval on the Minutes from March 4, 2019.

Chair Martinez motioned for approval of the minutes and all the Members voted in the affirmative.

Second: Mr. Neff

In Favor: Unanimous

Opposed: None

Motion Granted

**Director's Report: None**

**Adjournment**

There being no further business, the meeting was adjourned at 4:10p.m.

APPROVED BY: \_\_\_\_\_ OR \_\_\_\_\_  
Chairman Vice-Chair

DATE: \_\_\_\_\_

ATTESTED BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Executive Secretary

DRAFT