

City of San Antonio



**Draft**

**Board of Adjustment Minutes**

Development and Business Services

Center

1901 South Alamo

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**June 7, 2021**

**1:00PM**

**Videoconference**

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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

**1:01 P.M. - Call to Order**

**- Roll Call**

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

**Item #1** (Continued from May 17, 2021) **BOA-21-10300042:** A request by Jose Fong for an appeal to the Administrative Official's decision of Denial for a Nonconforming Use Registration for "Live Entertainment Without Cover Charge 3 or More Days per Week", located at 2831 NW Loop 410. Staff recommends Denial. (Council District 1) (Mirko Maravi, Senior Planner, 210-207-0107, Mirko.Maravi@Sanantonio.gov, Development Services Department)

Staff stated 10 notices were mailed to property owners within 200 feet, 0 returned in favor, and 2 (voicemail) returned in opposition. No registered Neighborhood Association.

**Chris Strawn, 2831 NW 410** – Request for appeal to Administrative Official's decision. Seeking the same licensing as the previous property owner.

**Submitted Public Comment**

Health Texas Medical Group, 2961 Mossrock – In opposition  
Vanessa Peterson, 2731 NW Loop 410 – 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-20-10300042, as presented

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

"Regarding Case No. BOA 21-10300042, I move that the Board of Adjustment grant an appeal to the Land Development's decision of Denial for a Nonconforming Use Registration for "Live Entertainment Without Cover Charge 3 or More Days per Week", situated at 2831 Northwest Loop 410, applicant being Jose Fong."

**Second:** Manna

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

**Opposed:** Manna, Ozuna

**Motion Fails**

**Item #2** **BOA-21-10300051:** A request by Jay Brandon for an appeal of the Historic Preservation Officer's decision of Denial to issue a Certificate of Appropriateness, located at 244 Hermine Boulevard. Staff recommends Denial. (Council District 1) (Huy Pham, Historic Preservation Specialist, 210-207-5464, Huy.Pham@sanantonio.gov, Office of Historic Preservation; Mirko Maravi, Senior Planner, 210-207-0107, Mirko.Maravi@Sanantonio.gov, Development Services Department)

Staff stated 22 notices were mailed to property owners within 200 feet, 7 returned in favor, 2 in favor outside 200', and 0 returned in opposition. No response from the Olmos Park Terrace Neighborhood Association.

**Jay Brandon, 24 Hermine Blvd** – Requesting an appeal for Historic Preservation Officer’s decision of denial. The windows of his home are very old and need to be replaced. He wastes electricity during the summer due to the heat.

**Submitted Public Comment**

Lorna Klockenga & Angela Andrade, 260 Hermine – In favor  
Diane R. Smith, 257 Hermine – In favor  
Beth Watkins – In favor  
Robert & Janet Morrow, 131 Lovera – In favor  
Angel C. Rodriguez, 233 Hermine Blvd– In favor  
David Moore, 262 Hermine Blvd – In favor  
Carol Reposa, 263 Hermine Blvd – In favor  
Robert Miller, 232 Hermine Blvd – In favor  
Holly Chamess, 247 Hermine Blvd – 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-20-10300051, as presented

Mr. Manna made a **motion** for BOA-20-10300051 for approval

“Regarding Case No. BOA 21-10300051, I move that the Board of Adjustment grant an appeal to the Historic Preservation Officer’s decision of Denial to issue a Certificate of Appropriateness, situated at 244 Hermine Boulevard, applicant being Jay Brandon.”

**Second:** Teel

**In Favor:** Menchaca, Bragman, Delmer, Teel, Ozuna, Oroian

**Opposed:** Schell, Fisher, Cruz, Manna

**Motion Fails**

**Item #3**

**BOA-21-10300034:** A request by Small House Solutions for variances to the Beacon Hill Neighborhood Conservation District (NCD-5) design standards as follow: 1) a 7’1” variance to the required minimum front setback of 20’ to allow a 12’11” front setback, 2) a variance to the restriction to allow a driveway gate, 3) a variance to the same material and proportion requirement for new street-facing fences for corner lots to allow a steel fence in the front yard, 4) a 20’ variance to the maximum width of 12’ for a driveway to allow a driveway width of 32’, located at 201 Hickman Street. Staff recommends Denial with an Alternate Recommendation. (Council District 1) (Mirko Maravi, Senior Planner, 210-207-0107, [Mirko.Maravi@Sanantonio.gov](mailto:Mirko.Maravi@Sanantonio.gov), Development Services Department)

Staff stated 27 notices were mailed to property owners within 200 feet, 1 returned in favor, and 1 returned in opposition. Five Points Owners Association and Alta Vista Neighborhood Association are in favor. No response from the Beacon Hill Neighborhood Association.

**Pablo Martinez, Small House Solutions, 201 Hickman St** – Requesting setback and driveway variances for new home construction. Home will be a 2 story home for single family.

**Submitted Public Comment**

Douglas House, 106 Aganier – In favor

Jimmie Parko, 110 Aganier – In opposition

Abe Juarez, Five Points Owners Association – In favor

Christina Wright, President, Alta Vista NA – 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-20-10300034, as presented

Ms. Schell made a **motion** for BOA-20-10300034, as presented

“Regarding Case No. BOA-21-10300034, I move that the Board of Adjustment grant a request for 1) a 7’1” variance to the required 20’ NCD-5 front setback to allow a 12’11” front setback, situated at 201 Hickman Street, applicant being Small House Solutions, 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 size of the lot prevents certain NCD standards from being abided by if a single-family residence is built on it.**
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*  
**Literal enforcement of the front setback would create an inconsistent setback along the blockface.**
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*  
**The variance to the front setback observe the spirit of the ordinance in relation to the size of the 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.*  
**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.*

**If granted, the front setback variance will not alter the essential character of the district. With the property being at 2,430 square feet and the only property on its block-face, the essential character will remain.**

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.*

**Staff finds that with the size of the lot and being the only residential home on the block-face, the variances sought are due to unique circumstances and not merely financial.”**

**Second:** Teel

The Board discussed the motion

Chair Oroian made an **amended motion** to include 4) a 20’ variance to the 12’ NCD-5 driveway maximum width to allow a driveway width of 32’.

**Second:** Cruz

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

**Opposed:** Schell

**Motion Granted**

**The amended motion passed and has become the new main motion.**

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

**Opposed:** None

**Motion Granted**

**Chair Oroian** called for the Board of Adjustment to take a recess at 3:18 pm. The Board of Adjustment returned at 3:28 pm.

**Item #4** **BOA-21-10300048:** A request by PrymeHomes for a 4’11" variance to the required 5' side setback, to allow a 1" side setback for a single-family dwelling, located at 4211 Clear Lake Drive. Staff recommends Approval. (Council District 10) (Mirko Maravi, Senior Planner, 210-207-0107, [Mirko.Maravi@Sanantonio.gov](mailto:Mirko.Maravi@Sanantonio.gov), Development Services Department)

Staff stated 21 notices were mailed to property owners within 200 feet, 14 returned in favor, and 0 returned in opposition. The Northern Hills Neighborhood Association is in favor.

**John Barr, Pryme Homes, 4211 Clear Lake Drive** – Requesting variance to allow for a new home to be constructed on an existing slab. The home will be the same floorplan as the original home. The original home was destroyed during a car accident.

**Submitted Public Comment**

Robert Myers, 4217 Clear Lake Dr – In favor  
Sara Marie Brendle, 12607 Sandtrap Lane – In favor  
Phuong Kearney, 12603 Sandtrap Lane – In favor  
Stephanie Slocumb, 4210 Hilton Head – In favor  
Mary Williams – 4221 Clark Lake – In Favor  
Linda Caballero – 4207 Hilton Head – In Favor  
John Barr – 4211 Clear Lake – In Favor  
Gabriela Shirley – 4207 Clear Lake – In Favor  
Layne Esther – 12601 Sandtrap – In Favor  
Tekla Burns – 4206 Hilton Head – In Favor  
Rose Cortes – 4218 Clear Lake – In Favor  
Trea Hinojosa – 4208 Hilton Head – In Favor  
Ray and Kathryn Wacławcyk – 4205 Hilton Head – In Favor  
Hazel Carter – 4202 Hilton Head – In Favor  
Milton McFarland, Vice President, Northern Hills NA, 4209 Hilton Head 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-20-10300048, as staff recommended.

Ms. Fisher made a **motion** for BOA-20-10300048 for approval

“Regarding Case No. BOA-21-10300048, I move that the Board of Adjustment grant a request for a 4’11” variance to the required 5’ side setback as required in Table 310-1 to allow a 1” side setback for a single-family dwelling, situated at 4211 Clear Lake Drive, applicant being Pryme Homes, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

1. *The variance is not contrary to the public interest.*

**The variance requested is not contrary to the public interest. The public interest is defined as the general health, safety, and welfare of the public. There the abutting property has an 8’10” side setback along the side of the requested variance.**

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*  
**Literal enforcement of the ordinance would not result in unnecessary hardship as the previous home constructed in 1981 was built in the same configuration.**
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 variance will provide an 8'10" separation between homes.**
4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the zoning district in which the variance is located.*  
**No uses other than those allowed within the district will be allowed with this variance.**
5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*  
**If granted, the variances will not alter the essential character of the district. Much of the neighborhood was built on a zero lot lines. A Vacating Plat in 1979 removed the Planned Unit Development designation that appears to have removed the reduced side setback.**
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 was not created by the property owner. The general conditions of the district in which the property is located in an area with dwellings built with reduced to no side setbacks.**

**Second:** Teel

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

**Opposed:** None

**Motion Granted**

## Item #5

**BOA-21-10300052:** A request by Miguel Garcia for a 4' side setback variance to allow a carport to be 1' from the side property line with an 8" overhang, located at 351 Kendalia Avenue. Staff recommends Denial with an Alternate Recommendation. (Michael Pepe, Senior Planner, (210) 207-8208, Michael.Pepe@sanantonio.gov, Development Services Department)

Staff stated 25 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition. No registered Neighborhood Association.

**Miguel Garcia, 351 Kendalia Ave** – Requesting a variance to construct a carport to protect vehicles from the weather elements.

**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-20-10300052, as presented

Mr. Ozuna made a **motion** for BOA-20-10300052 for approval

“Regarding Case No. BOA-21-10300052, I move that the Board of Adjustment grant a request for a 4' variance to the required 5' side setback as required in Table 310-1 to allow a 1' side setback with an 8" overhang for a carport, situated at 351 Kendalia Avenue, applicant being Miguel 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 variance requested is not contrary to the public interest. The public interest is defined as the general health, safety, and welfare of the public, and the requested variance will preserve the public interest.**
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. The variance requested will provide sufficient drivable area for the resident's carport.**
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. If variance is granted, the spirit of the ordinance will be observed. The intent of the code is to provide distance from the neighboring property and this variance will provide it.**
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 requested variance 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. There are similar like structures in the area.**



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. These circumstances came about by the size and shape of the lot.”**

**Second:** Manna

The Board discussed the motion

**Chair Oroian** made a friendly amendment to read, “1’ side setback for a carport no longer than 35’ long, commencing no closer than 54’ from the front property line.”

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

**Opposed:** None

**Motion Granted**

**Item #6**

**BOA-21-10300036:** A request by Gilberto Barrera for a special exception to the maximum height limitation of 5’ for predominantly open fence, to allow a front yard solid screen fence to be 8’ in height, located at 3018 Charter Crest Street. Staff recommends Denial. (Council District 9) (Mirko Maravi, Senior Planner, 210-207-0107, [Mirko.Maravi@Sanantonio.gov](mailto:Mirko.Maravi@Sanantonio.gov), Development Services Department)

Staff stated 14 notices were mailed to property owners within 200 feet, 11 returned in favor, and 0 returned in opposition, 12 in favor outside 200’. No response from the Vance Jackson Neighborhood Association.

**Gilberto Barrera, 3018 Charter Crest Street** – Requesting a special exception to allow for a open fence to the front of the yard with a retaining wall. Fence is 8’ in height. The retaining wall was needed to keep from water flooding into the yard, damaging the grass and entering the home.

**Submitted Public Comment**

Judy Dennis, 3014 Charter Crest St – In favor

Diana Tijerina, 3015 Charter Crest St – In favor

Bert & Shirley Cecconi, 3017 Charter Crest St – In favor

Gilberto & Ruby Barrera, 3018 Charter Crest St – In favor

John & Pamela Schlegel, 3019 Charter Crest St – In favor

Yolanda Maria Gomez Delgado, 3022 Charter Crest – In favor

Jack & Marjorie McCleelan, 3023 Charter Crest – In favor

Claude & Vincent Lamoureux, 10415 Dreamland Dr – In favor

William Whisenant, 3006 Charter Crest St – In favor

Ricardo Mendizabal, 3030 Charter Crest St – In favor

Clay Berry, 10503 Mossbank Ln – In favor  
Don W Starnes, 10431 Dreamland Dr, **outside 200'** – In favor  
Rose Hrnair, 3002 Charter Crest St, **outside 200'** – In favor  
James & Yoko Sutton, 3010 Charter Crest St, **outside 200'** – In favor  
Angel & Kristin Garcia, 3038 Charter Crest St, **outside 200'** – In favor  
Mildred Hernandez, 3042 Charter Crest St, **outside 200'** – In favor  
Bernard & Carmen Heer, 10502 Mossbank Ln, **outside 200'** – In favor  
Phillip Wayne & Wilma Yantis, 10506 Mossbank Ln, **outside 200'** – In favor  
Bilal Tanal & Haase Gentry Marie Ghandour, 10507 Mossbank Ln, **outside 200'** – In favor  
Manuel Garza & Amanda Phelps, 10510 Mossbank Ln, **outside 200'** – In favor  
David & Beverly Wong, 10511 Mossbank Ln, **outside 200'** – In favor  
Roberto & Sonia Carrirzaes, 10514 Mossbank Ln, **outside 200'** – In favor  
Marc A Hernandez, 3006 Nantucket Dr, **outside 200'** – 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-20-10300036, as presented

Ms. Bragman made a **motion** for BOA-20-10300036 for approval

“Regarding Case No. BOA-21-10300036, I move that the Board of Adjustment grant a request for a special exception to the permitted 5’ predominantly open fence in Section 35-514(c) to allow a front yard fence to be an 8’ tall privacy fence, situated at 3018 Charter Crest Street, applicant being Gilberto Barrera, 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 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 in the front yard will provide additional privacy and 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 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 requested special exception will not weaken the general purpose of the district.”**

**Second:** Schell

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

**Opposed:** None

**Motion Granted**

**Item #7** Consideration and approval of May 17, 2021 Board of Adjustment meeting minutes.

**Motion:** Chair Oroian asked for a motion for approval of May 17, 2021

Ms. Cruz made a **motion** for approval of May 17, 2021 minutes as presented.

**Second:** Fisher

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

**Opposed:** None

**Minutes approved**

**Adjournment**

There being no further business, the meeting was adjourned at 5:11 p.m.

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

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

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

DRAFT