

City of San Antonio



Draft

Board of Adjustment Minutes

Development and Business Services

Center

1901 South Alamo

June 21, 2021

1:00PM

Videoconference

Board of Adjustment Members

A majority of appointive Members shall constitute a quorum.

Donald Oroian, District 8, Chair

Andrew Ozuna, Mayor, Vice Chair

Seth Teel, District 6, Pro-Tem

Anisa Schell, District 1 | Seymour Battle III, District 2

Abel Menchaca, District 3 | George Britton, District 4 |

Maria Cruz, District 5 | Phillip Manna, District 7

Kimberly Bragman, District 9 | Jonathan Delmer, District 10

Alternate Members

Cyra M. Trevino | Vacant | Arlene B. Fisher | Vacant | Vacant |
Kevin W. Love | Vacant

1:03 P.M. - Call to Order

- **Roll Call**
- **Present:** Menchaca, Fisher, Cruz, Manna, Bragman, Delmer, Teel, Ozuna, Love, Trevino, Oroian
- **Absent:** Britton, Battle, Schell

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** **BOA-21-10300050:** A request by Carlos Armando Villela for 1) a 3' variance to the minimum 5' side setback to allow a carport with 1' overhang to be 2' from the side property line, and 2) a 1' special exception request from the maximum fence height of 5' to allow a predominately open front yard fence to be 6' tall, located at 231 Cliffwood Drive. Staff recommends Denial with an Alternate Recommendation. (Council District 1) (Kayla Leal, Senior Planner (210) 207-0197, kayla.leal@sanantonio.gov, Development Services Department)

Staff stated 35 notices were mailed to property owners within 200 feet, 1 returned in favor, and 4 returned in opposition. No response from the North Central Neighborhood Association.

Justin Acosta, 231 Cliffwood Drive – Applicant did not know permits were needed for the construction of the carport. There are several homes with the same type of carport. Does not have the funds to make redo the carport.

Submitted Public Comment

Grace Rodriguez, 235 Cliffwood Dr – In opposition

Alicia C. Realme, 234 Redrock Dr – In opposition

Marianna U. Oyervides, 226 Redrock Dr. – In opposition

Alma Villarreal, 230 Redrock Dr. – In opposition

Juan J. Villareal, 230 Redrock Dr. – 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-20-10300050, as presented

Mr. Ozuna made a **motion** for BOA-20-10300050 for approval

“Regarding Case No. BOA-21-10300050, I move that the Board of Adjustment grant a request for a 2' variance to the minimum 5' side setback to allow a carport with 1' overhang to be 3' from the side property line, situated at 231 Cliffwood Drive, applicant being Carlos Armando Villela, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

The public interest is defined as the general health, safety, and welfare of the public. The request to allow a carport encroachment into the side setback is not contrary to the public interest as the applicant has adequate space from the adjacent structure with side setbacks received today.

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

The Board finds that any special conditions that, if enforced, would result in an unnecessary hardship. By imposing a literal enforcement, the carport width would need to be adjusted to 14' 9" which would reduce the amount of space for two vehicles.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done. The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. The intent of the setbacks is to provide spacing between neighboring structures which is observed.*
4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located. The variance will not authorize the operation of a use other than those uses specifically authorized by the district.*
5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located. The request to reduce a portion of the side setback does not pose a risk of substantially injuring the use of adjacent properties and does not seem likely to alter the essential character of the district. This property is located within an older neighborhood, and there are other non-conforming carports built encroaching into the side setbacks.*
6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located. The Board finds that the plight of the property owner is sought due to the unique circumstances existing on the property due to the short width of available space for a two-vehicle carport."*

Second: Cruz

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

Opposed: None

Motion Granted

Chair Oroian asked for a motion for item BOA-20-10300050 Special Exception, as presented

Mr. Ozuna made a **motion** for BOA-20-10300050 for approval

"Regarding Case No. BOA-21-10300050, I move that the Board of Adjustment grant a special exception from the maximum fence height to allow a predominately open front yard fence to be 6' tall, situated at 231 Cliffwood Drive, applicant being Carlos Armando Villela, 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 1' of height is intended to provide additional safety for the property. DSD Traffic has reviewed the request and do not have any opposition to the request.*

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. A 6' predominately open fence along the front yard on the west side does not pose any adverse effects to the public welfare.
3. *The neighboring property will not be substantially injured by such proposed use.*
The Board finds that the fence will create enhanced security 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 front yard fence will not alter the essential character of the district and will provide security of the district. DSD Traffic Staff did review the fence and it does not violate any Clear Vision Standards.
5. *The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district.*
The current zoning permits the current use of a single-family home. The requested special exception will not weaken the general purpose of the district."

Second: Cruz

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

Opposed: None

Motion Granted

Item #2

BOA-21-10300053: A request by Daniel Dalcais for 1) a 3' special exception request from the maximum fence height to allow a privacy fence to be 8' tall within the front yard and 2) a 4' variance to the minimum 15' clear vision standard to allow a front yard fence to be 11' away from the street, located at 1014 River Park. Staff recommends Denial. (Council District 9) (Azadeh Sagheb, Senior Planner (210) 207-5407, Azadeh.Sagheb@sanantonio.gov, Development Services Department)

Staff stated 32 notices were mailed to property owners within 200 feet, 0 returned in favor, 4 returned in opposition, 4 returned in opposition outside 200'. The Riverbend of Camino Real Neighborhood Association is in opposition.

Samuel DalCais, 1014 River Park – Representing his Father. Applicant is requesting to keep the wooden fence. The fence is needed so he can spend time outside with his pets and can barbeque.

Submitted Public Comment

Tracy & Gary Dufresne, 1003 River Glen West – In opposition

Bernadette L. Perez, 1018 River Park – Not in favor nor opposition

Ellen Murphy, 1023 River Park – In opposition

Gene Little, 1030 River Glen West – In opposition
Diane Flack, 1035 River Glen west – In opposition
Dr. Monica Lara, President, Riverbend of Camino Real HOA – In opposition
Taylor McKenney, 1127 River Vista West, Vice President, Riverbend of Camino Real HOA- In opposition
William McCarter, 1111 River Vista West – In opposition (**outside 200'**)
Michael Veal, 1115 River Park – In opposition (**outside 200'**)
Sonja Judd, 14811 River Mill – In opposition (**outside 200'**)
Barbara Holt, Board Member, 14811 S River Vista Dr. – In opposition (**outside 200'**)

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-20-10300053, as presented

Ms. Bragman made a **motion** for BOA-20-10300053 for approval

“Regarding Case No. BOA-21-10300053, I move that the Board of Adjustment grant a request for 1) a 3’ special exception from the maximum fence height, as required in Sec 35-514, to allow a privacy fence to be 8’ tall within the front yard, situated at 1014 River Park, applicant being Daniel Dalcais, 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 if granted, would be in harmony with the spirit and purpose of the ordinance.
2. *The public welfare and convenience will be substantially served.*
The 6’3” tall privacy wooden fence with 8’ tall posts is not out of character within this neighborhood. This is not contrary to the public interest.
3. *The neighboring property will not be substantially injured by such proposed use.*
The material and style of the fence does not distract the character of community. The subject fence will not substantially 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 constructed tall privacy fencing does detract from the character of the neighborhood.
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: Oroian

In Favor: None

Opposed: Bragman, Oroian, Love, Menchaca, Trevino, Cruz, Manna, Delmer, Teel Ozuna

Motion Fails

Chair Oroian asked for a motion for item BOA-20-10300053 variance, as presented

Ms. Bragman made a **motion** for BOA-20-10300053 for approval

“Regarding Case No. BOA-21-10300053, I move that the Board of Adjustment grant a request for 2) a 4' variance to the minimum 15' clear vision standard, as required in Sec 35-514, to allow a front yard fence to be 11' away from the street, situated at 1014 River Park, applicant being Daniel Dalcais, 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.

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

The public interest is defined as the general health, safety, and welfare of the public. In this case, given fence placement, the variance to Clear Vision is not contrary to the general health and safety of passersby and vision is not limited when entering and/or exiting the property.

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

Staff finds that a literal enforcement would result in unnecessary hardship and the applicant needs to demolish the fence.

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 Clear Vision is to increase visibility when entering/existing properties and limit harm to passersby. Approving the placement of the fence within the Clear Vision would not decrease visibility and would not cause harm to passersby.

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

The requested variance will not permit a use not authorized within the current 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 clear vision variance would not substantially injure the appropriate use of adjacent properties. The approval of lesser Clear Vision does not seem to pose sight constraints.

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 fencing should comply with the Clear Vision standards however due to regulations preventing taller fence for the security and privacy concerns, unique circumstances exist on the property.*

Second: Manna

In Favor: None

Opposed: Bragman, Manna, Love, Menchaca, Trevino, Cruz, Delmer, Teel, Ozuna, Oroian

Motion Fails

Item #3

BOA-21-10300054: A request by Jaime Vasquez for 1) a 2,030 square foot lot size variance from the minimum 5,000 square foot requirement to allow a lot to be 2,970 square feet, 2) a 2'5" variance from the minimum 5' side setback requirement, to allow the structure to be 2'7" away from the side property line, and 3) a 2'10" variance from the minimum 20' rear setback requirement to allow the structure to be 17'2" away from the rear property line, located at 322 Mockert Street. Staff recommends Approval. (Council District 5) (Azadeh Sagheb, Senior Planner (210) 207-5407, Azadeh.Sagheb@sanantonio.gov, Development Services Department)

Staff stated 33 notices were mailed to property owners within 200 feet, 0 returned in favor, and 1 returned in opposition. Collins Garden Neighborhood Association is in favor.

Jaime Vasquez, 322 Mockert Street – Requesting variances to allow for the improvements made to the structure. Applicant bought and rebuilt the home to improve the area.

Submitted Public Comment

Karen Speer, President, Collins Garden Neighborhood Association – In favor
Guadalupe Ramos, 320 Mockert – 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-20-10300054, as presented

Mr. Teel made a **motion** for BOA-20-10300054, as presented

“Regarding Case No. BOA-21-10300054, I move that the Board of Adjustment grant a request for 1) a 2,030 square foot lot size variance from the minimum 5,000 square foot to allow a lot to be 2,970 square feet, 2) a 2'5" variance from the minimum 5' side setback requirement to allow the structure to be 2'7" away from the side property line, and 3) a 2'10" variance from the minimum 20' rear setback requirement to allow the structure

to be 17'2" away from the rear property line, situated at 322 Mockert Street, applicant being Jaime Vasquez, 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.

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

The public interest is defined as the general health, safety, and welfare of the public. In this case, given the lot constraints, granting the variances for lesser setbacks and a smaller lot size does not seem to be in 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. In the absence of variances, the structure needs to be demolished. The lot square footage is below the minimum code requirement, so any development on the lot will require variances.

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

The spirit of the ordinance is the intent of the code, rather than the strict letter of the law. Approving the requested variances will not detract from the intent of the ordinance to provide safety, beauty, and quality of life in the neighborhood. All intents of this law will be observed.

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

The requested variances will not permit a use not authorized within the district it is located in.

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

The requested variances to reduce the lot size and the side and a portion of rear setback would not substantially injure or alter the use or character of adjacent conforming property or character of the district. The variances would not alter the essential character of the vicinity. The neighboring properties are small lots, and the setback encroachment is common to maximize the use of substandard 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 circumstances were not created by the owner of the property and are not merely financial. The plight resulted from the exceptional character of the property, which is its size and it is common within this neighborhood."

Second: Cruz

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

Opposed: None

Motion Granted

Item #4 **BOA-21-10300055:** A request by Sara Gerrish for 1) a 15' 6" variance to the minimum 20' rear setback to allow the structure to be 4'6" from the rear property line and 2) a 1'4" variance to the minimum 5' side setback to allow the structure to be 3'8" from the side property line, and 3) a 2,130 square foot variance to the 6,000 square foot minimum lot size to allow a lot to be 3,870 square feet. Staff recommends Approval. (Council District 5) (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, 4 returned in favor, and 0 returned in opposition. No response from Lone Star Neighborhood Association.

Sara Gerrish, 107 Peters Court – Requesting variances to enclose the patio. The enclosed patio would provide privacy for family.

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-20-10300055, as presented.

Mr. Teel made a **motion** for BOA-20-10300055 for approval

“Regarding Case No. BOA-21-10300055, I move that the Board of Adjustment grant a request 1) for 15' 6" Variance to the Minimum 20' Rear Setback as required in Sec 35-310.01 to allow the structure to be 4'6" from the rear property line, 2) for a 1'4" Variance to the Minimum 5' Side Setback as required in Sec 35-310.01 to allow the structure to be 3'8" from the side property line, and 3) for a 2,130 square foot Variance to the 6,000 square foot Minimum Lot Size to allow a lot to be 3,870 square feet, situated at 107 Peters Court, applicant being Sara Gerrish, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

The public interest is defined as the general health, safety, and welfare of the public. In this case, the variance being requested is for a building encroachment into the rear and side setback and for a reduction in the minimum lot size. The requests do not seem to be contrary to the public interest.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
The Board finds that any special conditions that, if enforced, would result in an unnecessary hardship. By imposing a literal enforcement, the full use of the property would be limited, due to its size.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done. The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. The intent of the setbacks is to provide spacing between neighboring structures. By reducing the setback to 4'6", the applicant will maintain over 30' between structures. The variance to the side setback would leave over 14' between structures, which is not uncommon in this neighborhood.*
4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located. The variance will not authorize the operation of a use other than those uses specifically authorized by the district.*
5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located. The request to reduce a portion of the rear and side setbacks do not pose a risk of substantially injuring the use of adjacent properties and does not seem likely to alter the essential character of the district. This property is located within an older neighborhood where it is common to find dwellings built near the property line to utilize most of the small lots.*
6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located. The Board finds that the applicant is requesting the variance to receive a permit for an addition. The unique circumstances existing on the property were not created by the owner, because the high minimum lot size was placed on the property by the City and that the general lot size is a special condition of the lot and area."*

Second: Bragman

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

Opposed: None

Motion Granted

Item #5

BOA-21-10300057: A request by Laura Butterfield for 1) a 15' variance from the minimum 20' rear setback, to allow the structure to be 5' from the rear property line, 2) a 1'8" variance from the minimum 5' side setback, to allow the structure to be 3'4" from the side property line, and 3) a 2' special exception request from the maximum fence height of 6' to allow a back and side yard fence to be 8' tall, located at 9306 Pottesgrove. Staff recommends Approval. (Council District 7) (Mirko Maravi, Senior Planner, 210-207-0107, Mirko.Maravi@Sanantonio.gov, Development Services Department)

Staff stated 28 notices were mailed to property owners within 200 feet, 0 returned in favor, and 2 returned in opposition. No registered Neighborhood Association.

Laura Butterfield, 9306 Pottesgrove – Requesting to construct a fence at the highest point 6’9”. Would like to build an art studio attached to her home.

No Public Comment

John & Melissa McClenon, 9311 Cheswick St – In opposition

Laura Regalado, 9319 Cheswick St – In opposition

9311 Pottesgrove – In favor

David Violette, 9302 Letcombe – In favor

Rossana Violette, 9303 Pottesgrove – In favor

Maria & David Garcia, 9322 Pottesgrove – In favor

Taylor Steele, 9318 Pottesgrove – In favor

Josie & Tony Renteria, 9314 Pottesgrove – In favor

Ben Kimmel, 9301 Pottesgrove – In favor

Frank Sprout, 9315 Pottesgrove – In favor

Jay Hagemann, 9302 Pottesgrove – In favor

Chair Oroian asked for a motion for item BOA-20-10300057, as presented

Mr. Manna made a **motion** for BOA-20-10300057 for approval

“Regarding Case No. BOA-21-10300057, I move that the Board of Adjustment grant a request for 1) a 15’ variance from the minimum 20’ rear setback as required in Section 35-310.01, to allow the structure to be 5’ from the rear property line, and 2) a 1’8” variance from the minimum 5’ side setback as required in Section 35-310.01, to allow the structure to be 3’8” from the side property line, situated at 9306 Pottesgrove, applicant being Laura Butterfield, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

The public interest is defined as the general health, safety, and welfare of the public. The applicant is requesting a variance to the rear and side setback for an attached accessory dwelling, which is not contrary to the public interest. The rear setback will have more than 40’ to the abutting structure and the side setback will have 3’4” which would leave enough room for maintenance and an overhang if approved.

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

The attached accessory dwelling is required to comply with the setbacks of the main structure, however if detached, a rear setback variance would not be required. The side setback would also not be required per Sec 35-516 projecting Architectural Features, which permits a side yard setback of 3’ with no projections within those 3’.

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 principal home is 1,780 square feet, which would allow an attached accessory dwelling of 623 square feet. The proposed 184 square foot accessory dwelling is significantly less, however with the size of the rear yard, the applicant is building to the respective size.*
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 side are rear setback 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 attached accessory dwelling will have ample enough room for maintenance on the side and rear. The addition will not alter the essential character of the district in which the property is located.
6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.*
Staff finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property. The size of the rear yard does not allow adequate room for a detached accessory dwelling and the size of the detached accessory dwelling is far below what would be permitted with the size of the principal dwelling.”

Second: Ozuna

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

Opposed: None

Motion Granted

Chair Oroian asked for a motion for item BOA-20-10300057 Special Exception, as presented

Mr. Manna made a **motion** for BOA-20-10300057 for approval

“Regarding Case No. BOA-21-10300057, I move that the Board of Adjustment grant a request for a request for a special exception to allow a back and side yard fence to be **6’ 9”** tall, as described in Section 35-514, situated at 9306 Pottesgrove, applicant being Laura Butterfield, 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.

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 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 fence heights to protect residential property owners while still promoting a sense of community. An 6' 9" fence along a rear yard will provide additional security for the applicant's property and the carport.
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 highly 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 yard fence will not alter the essential character of the district and will provide security of the district.
5. *The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district.*

The current zoning permits the current use of a single-family home. The requested special exception will not weaken the general purpose of the district."

Second: Cruz

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

Opposed: None

Motion Granted

Chair Oroian called for the Board of Adjustment to take a recess at 3:23 pm. The Board of Adjustment returned at 3:31 pm.

Item #6

BOA-21-10300060: A request by Robert Alvarado for 1) a 2' variance from the minimum 5' side setback requirement to allow a second dwelling unit to be 3' from the side property line, 2) a 5' variance to the minimum 10' rear setback to allow a dwelling unit to be 5' from the rear property, and 3) a special exception from the maximum fence height to allow a side and rear yard fence to be 8' tall, located at 401 Grove Avenue. Staff recommends Approval. (Council District 5) (Kayla Leal, Senior Planner (210) 207-0197, kayla.leal@sanantonio.gov, Development Services Department)

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

Robert Alvarado, 401 Grove Avenue – Wants to build a structure behind current structure. Wants to keep existing fence for security of property.

Submitted Public Comment

Carmen T. Coronado, 405 Grove Ave – 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-20-10300060, as presented

Chair Oroian made a **motion** for BOA-20-10300060 for approval

“Regarding Case No. BOA-21-10300060, I move that the Board of Adjustment grant a request for 1) a 2' variance from the minimum 5' side setback requirement to allow a second dwelling unit to be 3' from the side property line **on the east side and 5' with a 2' overhang on the west side**, 2) a 5' variance to the minimum 10' rear setback to allow a dwelling unit to be 5' from the rear property line **irrespective of potential alley that may exist in the rear**, situated at 401 Grove Avenue, applicant being Robert Alvarado, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

1. *The variance is not contrary to the public interest.*
The public interest is defined as the general health, safety, and welfare of the public. The request is for a side and rear setback variance. The applicant is proposing a secondary unit in the rear of the property and space is limited. The variances are not contrary to the public interest as the applicant has adequate space from adjacent structures.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
The Board finds that any special conditions that, if enforced, would result in an unnecessary hardship. Imposing a literal enforcement of the ordinance would result in the applicant building five feet from the side property line and ten feet from the rear.
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*
The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. The intent of the setbacks is to provide spacing between neighboring structures which is observed.
4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*
The variance will not authorize the operation of a use other than those uses specifically authorized by the district.

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

The request to reduce the side and rear setback does not pose a risk of substantially injuring the use of adjacent properties and does not seem likely to alter the essential character of the district. The Board finds the structure will have gutters and will maintain 3' from the east side property line and 5' from the rear property line and 5' with a 2' overhang on the west side.

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

The Board finds that the plight of the property owner is sought due to the unique circumstances existing on the property due to the small amount of area in the rear yard. The circumstances were not created by the owner and are not merely financial.”

Second: Bragman

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

Opposed: None

Motion Granted

Chair Oroian asked for a motion for item BOA-20-10300060 special exception, as presented

Mr. Ozuna made a **motion** for BOA-20-10300060 for approval

“Regarding Case No. BOA-21-10300060, I move that the Board of Adjustment grant a special exception from the maximum fence height to allow a side and rear yard fence to be 8' tall, situated at 401 Grove Avenue, applicant being Robert Alvarado, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

1. *The special exception will be in harmony with the spirit and purpose of the chapter.*

The UDC states the Board of Adjustment can grant a special exception for a fence height modification. The additional fence height of 2' is intended to provide privacy of the applicant's property. If granted, this request would be in harmony with the spirit and purpose of the ordinance.

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

In this case, these criteria are represented by fence heights to protect residential property owners while still promoting a sense of community. An additional 2' of lattice to the 6' fence along the side and rear property lines will provide additional privacy and security for the applicant's property, and will not be contrary to the public interest.

3. *The neighboring property will not be substantially injured by such proposed use.*
The fence will create enhanced security and privacy for the subject property and is unlikely to injure adjacent properties.
4. *The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought.*
The additional height for the section of side and back yard fence will not alter the essential character of the district and will provide security of the district.
5. *The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district.*
The current zoning permits the proposed use of two dwelling units. The requested special exception will not weaken the general purpose of the district.”

Second: Cruz

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

Motion Granted

Item #7

BOA-21-10300061: A request by Rhonda Schrantz for a 1' variance from the Ingram Hills Neighborhood Conservation District maximum fence height standard for front yard fences, located at 4119 E Horseshoe Bend. Staff recommends Denial. (Council District 7) (Mirko Maravi, Senior Planner, 210-207-0107, Mirko.Maravi@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. The Ingram Hills Neighborhood Association is in favor.

Rhonda Schrantz, 4119 E Horseshoe Bend – Requesting a variance to build a 5' fence for the safety and protection of property.

Submitted Public Comment

Mike Phillips, President, Ingram Hills Neighborhood Association – In favor

Anna & Ricardo Campos, 4107 E. Horseshoe Bend – 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-20-10300061, as presented

Mr. Manna made a **motion** for BOA-20-10300061 for approval

“Regarding Case No. BOA-21-10300061, I move that the Board of Adjustment grant a request for a variance from the Ingram Hills Neighborhood Conservation District, as described in Section 35-335, regarding front yard fences, situated at 4119 E Horseshoe Bend, applicant being Rhonda Schrantz, 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 Ingram Hills NCD front yard fence standards was adopted to maintain the character of the area. The variance to the NCD standards is for the front yard fence 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 Ingram Hills NCD design standards are an additional layer of review and regulations to maintain the character of the neighborhood. Literal enforcement of the ordinance result in unnecessary hardship by preventing the property owner to properly secure his dwelling.

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

The variance to the NCD design standards observes the spirit of the ordinance as it slightly modifies design requirements.

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

No uses other than those allowed within the district will be allowed with this variance.

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

The essential character of the district is maintained with the variance to the NCD design standards.

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 front yard fence should abide by the Alta Vista NCD design standards however due the standards preventing adequate security for the property owner’s dwelling, unique circumstances existing on the property.”

Second: Cruz

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

Opposed: None

Motion Granted

Item #8

BOA-21-10300062: A request by Brett Henneke for 1) a 10' variance from the minimum 20' rear setback, to allow the structure to be 10' from the rear property line, 2) an 1,827 square feet variance from the minimum lot size square footage of 4,000, to allow a lot to be 2,173 square feet, and 3) an 8' variance from the minimum 20' garage setback, to allow a garage to have a 12' front setback, located at 1717 Burnet St. Staff recommends Approval. (Council District 2) (Mirko Maravi, Senior Planner, 210-207-0107, Mirko.Maravi@Sanantonio.gov, Development Services Department)

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

Brett Henneke, 1717 Burnet St – Requesting variances to construct a residential structure on property where the original home was destroyed.

Submitted Public Comment

John Paul Bogran, 327 Bluebonnet – 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-20-10300062, as presented

Ms. Bragman made a **motion** for BOA-20-10300062 for approval

“Regarding Case No. BOA-21-10300062, I move that the Board of Adjustment grant a request for 1) a 10' variance from the minimum 20' rear setback as required in Section 35-310.01, to allow the structure to be 10' from the rear property line, 2) an 1,827 square feet variance from the minimum lot size square footage of 4,000, as described in Section 35-310.01, to allow a lot to be 2,173 square feet, and 3) an 8' variance from the minimum 20' garage setback, as described in Section 35-516(g), to allow a garage to have a 12' front setback, situated at 1717 Burnet St, applicant being Brett Henneke, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

The public interest is defined as the general health, safety, and welfare of the public. The applicant is requesting a variance to the rear setback, minimum lot size requirement and garage setback requirement. The requested variances are not contrary to the public interest.

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

The lot has a size of 2,173 square feet, which can reasonably accommodate a single-family dwelling, however not enough space for a rear setback and a garage driveway setback. A literal enforcement of the ordinance would prevent the construction of a single-family dwelling.

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 size of the lot would be equivalent to an “R-2” zoned lot which would permit the current lot size and the setback requested. The variance will also include the garage setback needed for a lot this size.*
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 single-family dwelling will match similar sized dwelling in the immediate area and not likely to alter the essential character of the district.
6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.*

Staff finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property. The size of the lot presents a unique circumstance which would require a rear setback and lot size variance to build a single-family dwelling. The attached garage does not exceed past the front façade of the principal structure and still requires a garage setback.”

Second: Manna

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

Opposed: None

Motion Granted

Mr. Delmer left the Board of Adjustment meeting at 4:28 pm.

Item #9

BOA-21-10300063: A request by Miguel Gil for 1) a 4’11” variance from the minimum 5’ side setback, to allow a carport to be 1” from the side property line and 2) a 9’11” variance from the minimum 10’ front setback, to allow a carport to be 1” from the front property line, located at 4318 Katrina Lane. Staff recommends Denial with an Alternate Recommendation. (Council District 3) (Mirko Maravi, Senior Planner, 210-207-0107, Mirko.Maravi@Sanantonio.gov, Development Services Department)

Staff stated 33 notices were mailed to property owners within 200 feet, 1 returned in favor, and 0 returned in opposition. No response from the Pecan Valley Neighborhood Association.

Miguel Gil, 4318 Katrina Lane – Requesting variances to continue building carport for the protection of vehicles from the weather.

Submitted Public Comment

Carl T. Smith, 4327 Katrina Ln – 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-20-10300063, as presented

Mr. Ozuna made a **motion** for BOA-20-10300063 for approval

“Regarding Case No. BOA-21-10300063, I move that the Board of Adjustment grant a request for 1) a 4’11” variance from the minimum 5’ side setback as required in Section 35-310.01, to allow a carport to be 1” from the side property line, situated at 4318 Katrina Lane, applicant being Miguel Gil, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

1. *The variance is not contrary to the public interest.*
The public interest is defined as the general health, safety, and welfare of the public. The proposed carport would not be contrary to the public interest and will have room for maintenance.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
Literal enforcement of the ordinance would result in unnecessary hardship. The property owners driveway is not wide enough to abide by the district’s setback standard.
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 side setback is intended to prevent runoff onto neighboring properties as well as provide distance from neighboring structures for the purposes of fire safety and maintenance and the 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 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 variance will injure the essential character of the district, which calls for structures to be separated on the sides by setbacks. Allowing construction along the property line would not alter this character. Further, the proximity to the neighboring property and structure would not injure adjacent use with visual and stormwater impacts.

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 would not allow a setback with enough room to park a vehicle.”

Second: Oroian

Mr. Manna made a Friendly amendment to include 7' variance from the front setback with to allow for a carport to be no closer than 3' to the property line. Motion was accepted by **Mr. Ozuna** and **Mr. Oroian**.

Chair Oroian reopened the public hearing to allow applicant, Mr. Miguel Gil to amend his application to include adding gutters on the west side of the carport he is wanting to build.

In Favor: Ozuna, Love, Menchaca, Trevino, Cruz, Manna, Bragman, Teel, Oroian

Opposed: None

Motion Granted

Item #10

BOA-21-10300074: A request by Jason Rios for a 10' variance from the minimum 20' front setback, to allow a carport to be 10' from the front property line, located at 2110 E Lawndale Dr. Staff recommends Denial. (Council District 10) (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, 9 returned in favor, and 4 returned in opposition, 7 in favor and 1 in opposition outside 200'. The Oak Park Northwood Neighborhood Association is in favor.

Maria Garcia Rios, 2110 E. Lawndale Dr. – Requesting a variance to build a carport.

Submitted Public Comment

Robert & Yolanda Moy, 2103 E. Lawndale Drive – In opposition

Susan M. Loyd, 2106 E. Lawndale – In opposition

Joe & Jan Paprskar, 2107 E Lawndale – In opposition

Heather & Samuel Pitamber, 2111 Lawndale – In favor

Thille Newton, 2119 Lawndale – In favor

Lew Bessie Wong, 99 Camellia Drive – In favor

Jared & Kathryn Edwards, 63 Camellia Drive – In favor

Jessica Lombardi, 69 Camellia Drive – In favor

Sarah Gonzales, 75 Camellia Drive – In favor

Mark Semmes, 93 Camellia Drive – In favor

Ashleigh Gallo, 2118 Lawndale – In favor

Kristin Tracy, 2102 E Lawndale Dr – In opposition
Beth Bender Wells, 104 El Rancho Way – In opposition
Gina Galaviz Eisenberg, President, Oak Park Northwood NA – In favor
2015 Lawndale – In favor (**outside 200'**)
2019 E Lawndale – In favor (**outside 200'**)
2126 Lawndale – In favor (**outside 200'**)
1835 E Lawndale – In favor (**outside 200'**)
1907 E. Lawndale – In favor (**outside 200'**)
1909 E Lawndale – In favor (**outside 200'**)
1926 E Lawndale – In favor (**outside 200'**)

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-20-10300074, as presented

Chair Oroian made a **motion** for BOA-20-10300074 for approval

“Regarding Case No. BOA-21-10300074, I move that the Board of Adjustment grant a request for a 10' variance from the minimum 20' NP-8 front setback as required in Section 35-353(c), to allow a carport to be **no closer than 10'** from the front property line, **to allow no part of the carport to be 10' from front property line**, situated at 2110 E Lawndale Dr, applicant being Jason Rios, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

1. *The variance is not contrary to the public interest.*
The public interest is defined as the general health, safety, and welfare of the public. The applicant is requesting a variance to the front carport setback, which is not contrary to the public interest.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
Special conditions exist that would prevent two vehicles being covered by the proposed carport without the variance.
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*
The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. The intent of the Neighborhood Preservation Districts is to avoid congestion and overcrowding of land, which the proposed variance will not cause.
4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the zoning district in which the variance is located.*
No uses other than those allowed within the district will be allowed with this variance.

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

The variance will not substantially injure or alter the essential character of the district with other carports 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.*

Staff finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property. A carport with adequate district setback will not cover two vehicles."

Second: Ozuna

In Favor: Ozuna, Love, Menchaca, Trevino, Cruz, Manna, Bragman, Teel, Oroian

Opposed: None

Motion Granted

Item #11

Consideration and approval of June 7, 2021 Board of Adjustment meeting minutes.

Motion: Chair Oroian asked for a motion for approval of June 7, 2021

Ms. Cruz made a **motion** for approval of June 7, 2021 minutes with corrections.

Second: Bragman

In Favor: Cruz, Bragman, Love, Menchaca, Manna, Teel, Ozuna, Oroian

Opposed: None

Abstained: Trevino

Minutes approved

Adjournment

There being no further business, the meeting was adjourned at 5:38 p.m.

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary

DRAFT