

City of San Antonio



Draft

Board of Adjustment Minutes

Development and Business Services

Center

1901 South Alamo

August 16, 2021

1:00PM

1901 S. Alamo

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

Vacant, District 1 | Vacant, 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

1:13 P.M. - Call to Order

- Roll Call

- Present: Trevino, Fisher, Menchaca, Love, Cruz, Manna, Bragman, Delmer, Teel, Ozuna, Oroian

- Absent: Britton

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*

Mr. Love entered the Board of Adjustment meeting at 1:08 pm.

Item #2 **BOA-21-10300092:** A request by Eric Schneeman for an Appeal to an Administrative Official (OHP) Decision, located at 1907 West Kings Highway. Staff recommends Denial. (Council District 1) (Kayla Leal, Senior Planner (210) 207-0197, kayla.leal@sanantonio.gov, Development Services Department)

Staff stated 26 notices were mailed to property owners within 200 feet, 2 returned in favor, and 0 returned in opposition. Jefferson, Woodlawn Lake, and Monticello Historic District Neighborhood Associations are in opposition.

Edward Hall, Office of Historic Preservation, stated the case is an appeal to the denial of the OHP decision regarding the ribbon strip driveway on the property.

Eric Schneeman, 1907 West Kings Hwy - presented pictures of surrounding driveways of the neighbors around the property that are similar to the flat stone concrete driveway he is requesting to keep. Also stated his father is elderly and has trouble walking on the ribbon driveway.

Public Comment:

Bianca Maldonado, 457 Club Dr, Monticello Historic District – 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-20-10300092, as presented

Mr. Manna made a **motion** for BOA-20-10300092 for approval

“Regarding Case No. BOA 21-10300092, I move that the Board of Adjustment grant an Appeal to an Administrative Official (OHP) Decision, situated at 1907 West Kings Highway, applicant being Eric Schneeman,”

Second: Bragman

In Favor: Delmer

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

Motion Fails

Item #3 (Continued from 08/02/2021) **BOA-21-10300073:** A request by Javier Martinez for 4' 11" variance from the minimum 5' side setback to allow an attached carport to be 1" from the side property line, located at 1018 Vanderbilt Street. Staff recommends Denial with an Alternate Recommendation. (Council District 3) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Staff stated 24 notices were mailed to property owners within 200 feet, 1 returned in favor, 0 returned in opposition. No response from the Highland Park Neighborhood Association.

Javier Martinez, 1018 Vanderbilt – Requested a 32" variance for his carport. He stated he fired the contractor for unethical practice and will follow through with all city rules and regulations.

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-20-10300073, as presented

Mr. Teel made a **motion** for BOA-20-10300073 for approval

“Regarding Case No. BOA-21-10300073, I move that the Board of Adjustment grant a request for a 32” variance to the minimum 5' side setback to allow a carport with no overhang to be 1” from the side property line, situated at 1018 Vanderbilt Drive, applicant being Javier Martinez, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

1. *The variance is not contrary to the public interest.*
The public interest is defined as the general health, safety, and welfare of the public. The request to allow a carport encroachment into the side setback is not contrary to the public interest as the applicant has adequate space from the adjacent structure.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
The Board finds that any special conditions that, if enforced, would result in an unnecessary hardship. By imposing a literal enforcement, the carport width would need to be reduced which would limit the amount of space for a vehicle.
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*
The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. The intent of the setbacks is to provide spacing between neighboring structures which is observed.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*
The variance will not authorize the operation of a use other than those uses specifically authorized by the district.
5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*
The request to reduce a portion of the side setback does not pose a risk of substantially injuring the use of adjacent properties and does not seem likely to alter the essential character of the district. There are existing non-conforming carports encroaching into the side setbacks in the surrounding 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 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 vehicle carport.”

Second: Manna

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

Opposed: None

Motion Granted

Item #4

BOA-21-10300072: A request by Catherine Garza for a 2’ special exception from the maximum height of 6’ to allow a side and rear yard fence to be 8’ tall, located at 13202 Creek Dawn. Staff recommends Approval. (Council District 8) (Kayla Leal, Senior Planner (210) 207-0197, kayla.leal@sanantonio.gov, Development Services Department)

Staff stated 25 notices were mailed to property owners within 200 feet, 17 returned in favor, and 2 returned in opposition. No response from the Hunter’s Creek Neighborhood Association. Outside 200 feet; 12 notices received in favor.

Catherine Garza, 13202 Creek Dawn – Requested a special exception fence for pool privacy and security from the high crime in the area. Read a letter of support.

Public Comment

Dr. Blair Jackson - In favor. (voicemail)

Chair Oroian asked for a motion for item BOA-21-10300072, as presented

Mr. Teel made a **motion** for BOA-21-10300072, for approval

“Regarding Case No. BOA-21-10300072, I move that the Board of Adjustment grant a 2’ special exception from the maximum height of 6’ to allow a side and rear yard privacy fence to be 8’ tall, situated at 13202 Creek Dawn, applicant being Catherine Garza, 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 Board finds the area has some topography differences which was observed upon the site visit and, if granted, staff finds the 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’ wooden privacy along the side and rear property lines does not pose any adverse effects to the public welfare.
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. There are also elevation differences between the subject property and abutting properties, so the additional height is unlikely to substantially injure any neighboring 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 side and rear yard fences will not alter the essential character 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: Ms. Fisher

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

Opposed: None

Motion Granted

Item #5 BOA-21-10300082: A request by Geoffrey Schnipper for a 2' special exception from the 6' fence height maximum to allow an 8' wooden privacy fence along the side and rear property lines, located at 2645 Pebble Valley. Staff recommends Approval. (Council District 10) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Staff stated 28 notices were mailed to property owners within 200 feet, 6 returned in favor, 2 returned in opposition, and no response from the Oak Hollow Park Neighborhood Association. Outside 200 feet; 2 notices received in opposition and 1 notice received in favor.

Geoffrey Schnipper, 2645 Pebble Valley – Requested special exception for the fence on the property for privacy and security reasons.

Public Comment

Christine Little, 2618 Pebble Breeze - In favor

Maureen Lancaster, 2627 Pebble Breeze - In favor. (voicemail)

Mark Thacker, 2639 Pebble Breeze - In opposition. (voicemail)

Carolyn Thacker, 2639 Pebble Breeze - In opposition (voicemail)

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-20-10300082, as presented

Ms. Bragman made a **motion** for BOA-20-10300082 for approval

“Regarding Case No. BOA-21-10300082, I move that the Board of Adjustment grant a 2' special exception from the 6' fence height maximum to allow an 8' wooden privacy fence along the side and rear property lines, situated at 2645 Pebble Valley, applicant being Geoffrey Schnipper, 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:

- 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 2' of height is intended to provide additional privacy for the property.
- 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' wooden privacy fence along the side and rear property lines do not pose any adverse effects to the public welfare.
- The neighboring property will not be substantially injured by such proposed use.*
The Board finds that 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 rear and side 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: Trevino

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

Opposed: None

Motion Granted

Chair Oroian called for the Board of Adjustment to take a recess at 2:52 pm. The Board of Adjustment reconvened at 3:02 pm.

- Item #6** **BOA-21-10300091:** A request by Maria & Vicki Lira for a variance from the permitted fencing material to allow a corrugated metal fence, located at 3002 Briarfield Drive. Staff recommends Denial. (Council District 1) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Staff stated 17 notices were mailed to property owners within 200 feet, 1 returned in favor, 3 returned in opposition, and the Colonial Hills Neighborhood Association is in opposition.

Vicki Lira, 3002 Briarfield Dr – Requesting special exception for the fence on the property for privacy and safety reasons. Also requested an amendment to include metal capping for the edges.

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-20-10300091, as presented

Mr. Ozuna made a **motion** for BOA-20-10300091 for approval

“Regarding Case No. BOA-21-10300091, I move that the Board of Adjustment grant a request for a variance from the permitted fencing material to allow a corrugated metal fence and to include a capping of all exposed edges, situated at 3002 Briarfield Drive, applicant being Maria & Vicki Lira, 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 corrugated metal fence with exposed edges capped on the side rear property line is not 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 fence would need to be removed and replaced with other approved materials allowed per the UDC 35-514.
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 fencing material is to provide safety and privacy 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 allow for corrugated metal as a fence material on one side in the rear of the property does not pose a risk of substantially injuring the use of adjacent properties and does not seem likely to alter the essential character of the district.
6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.*
The Board finds that the plight of the property owner is sought due to the unique circumstances existing on the property due to the security and privacy that the owner is looking to establish.”

Second: Manna

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

Opposed: Menchaca

Motion Granted

Item #8 **BOA-21-10300078:** A request by Doronio Filamor for a 9' 9" variance from the minimum 10' front setback to allow a carport to be 1" away from the front property line, located at 10318 Coral Village. Staff recommends Approval. (Council District 4) (Kayla Leal, Senior Planner (210) 207-0197, kayla.leal@sanantonio.gov, Development Services Department)

Staff stated 36 notices were mailed to property owners within 200 feet, 0 returned in favor, 1 returned in opposition, and no response from the Heritage Oaks Neighborhood Association.

Jose Chavez, 10318 Coral Village – requested the carport variance to comply with the city.

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-20-10300078, as presented

Mr. Teel made a **motion** for BOA-20-10300078 for approval

“Regarding Case No. BOA-21-10300078, I move that the Board of Adjustment grant a request for a 9' 9" variance from the minimum 10' front setback to allow a carport to be 1" away from the front property line, situated at 10318 Coral Village, applicant being Doronio Filamor, 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 front setback is not contrary to the public interest as the applicant has adequate space from the street.
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 depth of the carport would only cover about half of the driveway and would not cover the length of a vehicle.
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*
The Board finds by granting the variance the spirit of the ordinance will be observed due to there being enough space in the driveway approach.

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 front 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. There are similar 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.*
The Board finds that the plight of the property owner is sought due to the unique circumstances existing on the property due to the stunted length of the driveway.”

Second: Ms. Fisher

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

Opposed: None

Motion Granted

Item #9

BOA-21-10300081: A request by Mary McGehee for 4' 11" variance from the minimum 5' side setback to allow an attached carport to be 1" from the side property line, located at 223 West Mayfield Boulevard. Staff recommends Denial with an Alternate Recommendation. (Council District 3) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department

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

Mary McGehee, 223 West Mayfield Blvd – Requested the variance to allow her existing carport to stay standing.

Public Comment:

Giovanni Solis, 225 W Mayfield - spoke in opposition.

The Board asked the applicant questions concerning the request. The Applicant responses were heard by the board as well as other testimonies offered, followed by a discussion among board members before the vote.

Chair Oroian asked for a motion for item [BOA-20-10300081](#) as presented.

Mr. Ozuna made a **motion** for BOA-20-10300081 for Approval.

“Regarding Case No. BOA-21-10300081, I move that the Board of Adjustment grant a request for a 2 feet variance to the minimum 5' side setback to allow a carport with rain gutters to be 1” from the side property line, situated at 223 West Mayfield Boulevard, applicant being Mary McGehee, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

1. *The variance is not contrary to the public interest.*
The public interest is defined as the general health, safety, and welfare of the public. The request to allow a carport encroachment into the side setback is not contrary to the public interest as the applicant has adequate space from the adjacent structure.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
The Board finds that any special conditions that, if enforced, would result in an unnecessary hardship. By imposing a literal enforcement, the carport width would need to be adjusted to 5' which would reduce the amount of space for vehicular parking.
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 nonconforming carports already 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 carport.”

Second: Teel

In Favor: Trevino, Fisher, Menchaca, Cruz, Bragman, Teel, Ozuna,

Opposed: Love, Manna, Delmer, Oroian

Motion Fails

Item #10 **BOA-21-10300088:** A request by Rene LaFuentes for 1) a 4' 6" variance from the minimum 5' side setback to allow an attached carport to be 6" away from the side property line, 2) a 3' variance from the minimum 10' front setback to allow an attached carport to be 7' away from the front property line, and 3) a special exception to allow a predominately open front yard fence to be 6' 8" tall, located at 1710 West Olmos 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 36 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and no response from the Los Angeles Heights Neighborhood Association.

Rene LaFuentes, 1710 West Olmos Drive – Requested the variances to comply for a new carport for the property to accommodate his large truck due to security and high street traffic. Amended the request to include positive drainage towards Olmos with gutters.

Public Comment:

Ashley and Kevin Carmona, 1713 W. Olmos In favor (voicemail)

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-20-10300088, as presented

Mr. Teel made a **motion** for BOA-20-10300088 for approval

Regarding Case No. BOA-21-10300088, I move that the Board of Adjustment grant a special exception to allow a predominately open front yard fence to be 6' 8" tall, situated at 1710 West Olmos Drive, applicant being Rene Lafuentes, 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' 8" of height is intended to provide additional safety for the property.
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' 8" predominately open fence along the front yard 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. The gate is on a rolling track which will not impede into the right-of-way.
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: Mr. Manna

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

Opposed: None

Motion Granted

Mr. Teel made a **motion** for BOA-20-10300088 for approval:

"Regarding Case No. BOA-21-10300088, I move that the Board of Adjustment grant a request for 1) a 4' 6" variance from the minimum 5' side setback to allow an attached carport to be 6" away from the side property line and 2) a 3' variance from the minimum 10' front setback to allow an attached carport to be 7' away from the front property line, situated at 1710 West Olmos Drive, applicant being Rene Lafuente, 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 and front setback is not contrary to the public interest as the applicant has adequate space from the adjacent structure and front property line.

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 not be adequate space for the parking of a vehicle.* **3. By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done. The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. The intent of the setbacks is to provide spacing between neighboring structures which is observed.**
3. *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.
4. *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 and front 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.
5. *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 and is not merely financial.**

Second: Mr. Ozuna

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

Opposed: None

Motion Granted

Item #11 **BOA-21-10300093:** A request by Edward Ramirez for a 3' variance from the minimum 5' side setback to allow an attached carport with 4" gutters to be 2' from the side property line, located at 3815 West Houston Street. Staff recommends Denial with an Alternate Recommendation. (Council District 5) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department

Staff stated 30 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition. No response from the Prospect Hill Neighborhood Association.

Edward Ramirez, 3815 W. Houston – Requested the variance to replace the existing carport and to re route water to the street.

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-20-10300093, as presented

Mr. Manna made a **motion** for BOA-20-10300093 for approval

“Regarding Case No. BOA-21-10300093, I move that the Board of Adjustment grant a request for a 3' variance from the minimum 5' side setback to allow an attached carport with 4” gutters to be 2' from the side property line, situated at 3815 West Houston Street, applicant being Edward Ramirez, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

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

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

The Board finds that any special conditions that, if enforced, would result in an unnecessary hardship. By imposing a literal enforcement, the carport width would need to be adjusted to 5' which would reduce the amount of space for one vehicle.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done. The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law.*

The intent of the setbacks is to provide spacing between neighboring structures which is observed.

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

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

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

The request to reduce a portion of the side setback does not pose a risk of substantially injuring the use of adjacent properties and does not seem likely to alter the essential character of the district. This property is located within an older neighborhood, and there are similar nonconforming carports encroaching into the 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 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 one-vehicle carport.”

Second: Bragman

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

Opposed: None

Motion Granted

Item #7

BOA-21-10300085: A request by Henry Banowsky for a 251 square foot variance from the minimum lot size requirement of 4,000 square feet to allow a lot size of 3,749 square feet, located at 1301 South Hamilton Street. Staff recommends Approval. (Council District 5) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Applicant not present

Chair Oroian asked for a motion for item BOA-20-10300085 to be continued to the September 20, 2021 Board of Adjustment meeting

Ms. Bragman made a motion for a continuance to September 20, 2021.

Second: Fisher

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

Opposed: None

Motion Granted for a continuance to September 20, 2021.

Item #12

Consideration and approval of August 2, 2021 Board of Adjustment meeting minutes.

Motion: Chair Oroian asked for a motion for approval of August 2, 2021 minutes.

Ms. Cruz made a **motion** for approval of the August 2, 2021 minutes.

Second: Manna

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

Opposed: None

Minutes approved

Supplemental Agenda Item

Item #1 Consideration and Action to schedule a Special Meeting on September 13, 2021.

Motion: Chair Oroian asked for a motion for the request for a Special Meeting.

Ms. Cruz made a **motion** for approval of the Special Meeting Request for September 13, 2021.

Second: Love

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

Opposed: None

Minutes approved

Director's Report: Update on Board of Adjustment appointments

Adjournment

There being no further business, the meeting was adjourned at 4:39 p.m.

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary

DRAFT