

City of San Antonio



**Draft**

**Board of Adjustment Minutes**

Development and Business Services

Center

1901 South Alamo

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**September 13, 2021**

**1:00PM**

**1901 S. Alamo**

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**Board of Adjustment Members**

A majority of appointive Members shall constitute a quorum.

Donald Oroian, District 8, Chair

Andrew Ozuna, Mayor, Vice Chair

Seth Teel, District 6, Pro-Tem

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**

Patrick Conroy | Elizabeth Ingalls | Jo-Anne Kaplan | Lisa Lynde

Lillian Miess | Jesse Vasquez | Jesse Zuniga

**1:13 P.M. - Call to Order**

**- Roll Call**

**- Present:** Menchaca, Cruz, Manna, Bragman, Ingalls, Lynde, Kaplan, Vasquez, Teel, Ozuna, Oroian

**- Absent:** Britton, Delmer

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 # 9** Consideration and action appointing one Board of Adjustment Member as primary to the Planning Commission Technical Advisory Committee for a two-year term.

**Motion:** Chair Oroian asked for a motion of one Board of Adjustment member as primary to the Planning Commission Technical Advisory Committee.

Mr. Ozuna made a **motion** for Mr. Teel to be appointed as the Primary member to the Planning Commission Technical Advisory Committee.

**Second:** Bragman

Voice vote all in favor, no oppositions

**Motion Granted**

**Motion:** Chair Oroian asked for a motion of one Board of Adjustment member as alternate member to the Planning Commission Technical Advisory Committee.

Mr. Teel made a **motion** for Mrs. Cruz to be appointed as the alternate member to the Planning Commission Technical Advisory Committee.

**Second:** Menchaca

Voice vote all in favor, no oppositions

**Motion Granted**

**Item #1** **BOA-21-10300083:** A request by Maricela Sanchez for 1) a special exception to allow a predominately open front yard fence to be 6' tall with a 6' 10" tall gate, 2) a special exception to allow a solid screen fence in the front yard to be 6' tall, 3) a 4' 11" variance from the minimum 5' side setback requirement to allow an attached carport to be 1" from the side property line, and 4) a 3' 6" variance from the 15' minimum Clear Vision Standard to allow a gate to be 11' 6" away from the street, located at 531 Peggy Drive. Staff recommends Denial with an Alternate Recommendation. (Council District 2) (Kayla Leal, Senior Planner (210) 207-0197, Kayla.Leal@sanantonio.gov, Development Services Department)

Staff stated 20 notices were mailed to property owners within 200 feet, 3 returned in favor, 0 returned in opposition. Eastgate Neighborhood Association is in opposition.

**Maricela Sanchez, 531 Peggy Drive** – Spoke of need for fence for privacy for children to be outside in the yard. Fence is also needed for safety for family.

**Public Comment**

Cynthia De Leon, 542 Peggy Dr – In favor (mail in)

Sylvia Alaniz, President, Eastgate Neighborhood Association – In opposition (mail in)

Earl Cook, 538 Stutts Dr – In favor (mail in)

Sandra Cook, 538 Stutts Dr – In favor (mail in)

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-20-10300083, special exception, as presented

Mr. Teel made a **motion** for BOA-20-10300083 for approval

“Regarding Case No. BOA-21-10300083, I move that the Board of Adjustment grant a special exception to allow 1) a special exception to allow a predominately open front yard fence to be 6’ tall with a 6’ 10” tall gate, 2) a special exception to allow a solid screen fence only on the north side of the front yard to be 6’ tall, situated at 531 Peggy Drive, applicant being Maricela Sanchez, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

1. *The special exception will be in harmony with the spirit and purpose of the chapter.*  
**The UDC states the Board of Adjustment can grant a special exception for a fence height modification. The additional fence height is intended to provide additional safety for the property. The gate is on a rolling track and does not pose any hazards to the clear vision.**
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 mostly 6’ predominately open fence along the front property line and a 6’ solid screened fence 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 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:** Ozuna

**In Favor:** Cruz, Bragman, Ingalls, Lynde, Kaplan, Vasquez, Teel, Ozuna, Oroian

**Opposed:** Menchaca, Manna

**Motion Granted**

Chair Oroian asked for a motion for item BOA-20-10300083, clear vision variance, as presented

Mr. Teel made a **motion** for BOA-20-10300083 for approval

“Regarding Case No. BOA-21-10300083, I move that the Board of Adjustment grant a request for 1, ) a 3’ 6” variance from the 15’ minimum Clear Vision Standard to allow a gate to be 11’ 6” away from the street, situated at 531 Peggy Drive, applicant being Maricela Sanchez, 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 the gate to be on the north property line with regards to the clear vision. Regarding the Clear Vision variance, DSD Traffic Staff has reviewed the request and finds that the fencing does not propose any clear vision or sight constraints.**
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 and the fence and rolling gate would need to be relocated.**
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 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 and is not merely financial.”**

**Second:** Ozuna

**In Favor:** Cruz, Bragman, Ingalls, Lynde, Kaplan, Vasquez, Teel, Ozuna, Oroian

**Opposed:** Menchaca, Manna

**Motion Granted**

- Item #2 BOA-21-10300084:** A request by Yolanda Rodriguez for 1) a variance to allow parking to be located in front of the structure and 2) a 20' 6" variance from the minimum 30' rear setback to allow a rear setback of 9' 6", located at 2011 Probandt Avenue. Staff recommends Approval. (Council District 3) (Kayla Leal, Senior Planner (210) 207-0197, Kayla.Leal@sanantonio.gov, Development Services Department)

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

**Sharron Tolido, 2011 Probandt Ave** – Speaking on behalf of Ms. Rodriguez. Requesting variance to allow for a parking lot for her beauty salon.

**Public Comment**

Joan A. Coy, 137 Thelka – In opposition (mail in)  
Celia Rodriguez, 2007 Probandt – In favor (mail in)  
Yolanda Rodriguez, 2007 Probandt – In favor (mail in)

Chair Oroian asked for a motion for item BOA-21-10300084, as presented

Mr. Ozuna made a **motion** for BOA-21-10300084, for approval

“Regarding Case No. BOA-21-10300084, I move that the Board of Adjustment grant a request for 1) a variance from the “NC” parking requirements to allow parking to be located in front of the structure and 2) a 20' 6" variance from the minimum 30' rear setback to allow a rear setback of 9' 6", situated at 2011 Probandt Avenue, applicant being Yolanda Rodriguez, 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 variances to locate the parking in front of the structure and reduce the rear setback. Staff does not find these requests 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. The shape of the lot and its location on the corner introduces special conditions on the subject property. A literal enforcement would result in the building having to be pushed toward the corner of the lot and parking in the rear, which would result in unnecessary hardship in regard to the off-street 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. Reducing the rear setback to 9' 6" does not appear to create any adverse effects and will maintain the spirit of the ordinance.**
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 variances requested do not appear to injure adjacent properties or alter the essential character of the district. There are other commercial properties across Probandt with parking located in the rear.**
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 owner of the property for which the variance is sought is due to unique circumstances existing on the property such as the odd shape of the lot and the location on the corner.”**

**Second:** Teel

**In Favor:** Menchaca, Cruz, Manna, Bragman, Ingalls, Lynde, Kaplan, Vasquez, Teel, Ozuna, Oroian

**Opposed:** None

**Motion Granted**

**Item #3**

**BOA-21-10300094:** A request by Dorothy Choice for a 5' 5" variance (with 7' credit from the alley) from the minimum rear setback requirement to allow a structure to be located 7' 7" from the property line, located at 647 Blakeley Drive. Staff recommends Approval. (Council District 2) (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, 0 returned in favor, 0 returned in opposition, 1 response in neither favor nor opposition. No registered Neighborhood Association.

**Robert Bokenkamp, 647 Blakeley Drive** – Purchased property to rehab and sale. Requesting variance to be up to code for the future homeowner.

**Public Comment**

John Hutson, 635 Blakeley Drive – neither in favor nor opposition (mail in)

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-20-10300094, as presented

Mr. Manna made a **motion** for BOA-20-10300094 for approval

“Regarding Case No. BOA-21-10300094, I move that the Board of Adjustment grant a request for a 5' 5" variance (with 7' credit from the alley) from the minimum rear setback requirement to allow a structure to be located 7' 7" from the property line, situated at 647 Blakeley Drive, applicant being Dorothy Choice, 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 an existing structure into the rear 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 house would need to be remodeled to remove 5' 5" from the rear of the house which would reduce the amount of livable space.**
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 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. This property is located within an older neighborhood, and there are other non-conforming existing structures encroaching into the rear 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 layout of the structure in regard to the rear setback.”**

**Second:** Cruz

**In Favor:** Menchaca, Cruz, Manna, Bragman, Ingalls, Lynde, Kaplan, Vasquez, Teel, Ozuna, Oroian

**Opposed:** None

**Motion Granted**

- Item #4**      **BOA-21-10300097:** A request by Emanuel M Ardelean for 1) a 3' 10" variance from the minimum 5' side setback to allow a structure to be 2' 2" from the side property line and 2) a 1' 8" variance from the minimum 5' side setback to allow a structure to be 3' 4" from the side property line, located at 11511 Clifton Forge Drive. Staff recommends Denial with an Alternate Recommendation. (Council District 8) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Staff stated 23 notices were mailed to property owners within 200 feet, 3 returned in favor, 0 returned in opposition. No response from the Shenandoah/Vance Jackson Neighborhood Association.

**Emanuel Ardelean, 11511 Clifton Forge Dr** – Requesting variances for setback to keep constructed carport. Carport is needed to protect recreational vehicles.

**Public Comment**

Lisa Moutria, 11506 Clifton Forge St – In favor (mail in)

Wayne Holmes, 11502 Clifton Forge Dr – In favor (mail in)

Roger Pratt, 11502 Heap Circle – In favor (mail in)

Dora, Shenandoah/Vance Jackson Neighborhood Association – Not in favor/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.

Applicant amended request to include gutters to carport.

Chair Oroian asked for a motion for item BOA-20-10300097, as presented

Mr. Manna made a **motion** for BOA-20-10300097 for approval

“Regarding Case No. BOA-21-10300097, I move that the Board of Adjustment grant a request for 1) a 2' variance to allow for a detached carport to be 3' from the northwestern property line and 2) a 1' 8" variance from the minimum 5' side setback to allow a structure to be 3' 4" from the southwest side with the northwest side being 13' in length and the northeast side being 34' in length, situated at 11511 Clifton Forge Drive, applicant being Emanuel Ardelean, 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 which would reduce the amount of space for the recreational 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 a neighborhood with many other non-conforming carports 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 recreational vehicles.”**

**Second:** Teel

**In Favor:** Menchaca, Cruz, Manna, Bragman, Ingalls, Lynde, Kaplan, Vasquez, Teel, Ozuna, Oroian

**Opposed:** None

**Motion Granted**

**Item #5**

**BOA-21-10300098:** A request by Francis Cisneros to renew a Special Exception to allow a Single-Operator Beauty Shop, located at 507 Creath Place. Staff recommends Approval. (Council District 3) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Staff stated 27 notices were mailed to property owners within 200 feet, 2 returned in favor, 0 returned in opposition. No registered Neighborhood Association.

**Francis Cisneros, 507 Creath Place** – Applicant requesting to renew her special exception for 4 years to allow for a single-operator beauty shop.

**Public Comment**

Oscar Landez, 502 Creath Place – In favor (mail in)

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-20-10300098, as presented

Mrs. Cruz made a **motion** for BOA-20-10300098 for approval

“Regarding Case No. BOA-21-10300098, I move that the Board of Adjustment grant a special exception to renew a Special Exception to allow a Single-Operator Beauty Shop, hours being Tuesday – Saturday, 9:00 am – 4:00 pm, situated at 507 Creath Place, applicant being Francis Cisneros, 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 single operator beauty/barber shop. The Beauty Shop is intended to be operated by a single owner. The request is in harmony with the spirit and purpose of the ordinance.**
2. *The public welfare and convenience will be substantially served.*  
**In this case, the Single Operator Beauty Shop is still promoting a sense of community. A single operator beauty/barber shop in an existing residential structure 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 beauty/barber shop fence will enhanced 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 beauty/barber shop will not alter the essential character 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, which will be for 4 years, will not weaken the general purpose of the district.”**

**Second:** Teel

**In Favor:** Menchaca, Cruz, Manna, Bragman, Ingalls, Lynde, Kaplan, Vasquez, Teel, Ozuna, Oroian

**Opposed:** None

**Motion Granted**

**Chair Oroian** called for the Board of Adjustment to take a recess at 2:57 pm. The Board of Adjustment reconvened at 3:09 pm.

**Item #6 BOA-21-10300099:** A request for 1) a 420 square-foot variance from the minimum 6,000 square foot requirement to allow a lot size of 5,580 square feet, 2) a 1' variance from the minimum 20' garage setback to allow a garage to be 19' away from the front property line, and 3) a 7' variance from the minimum 20' rear setback to allow a residential structure to be 13' away from the rear property line, located at 1912 West Mayfield Boulevard. Staff recommends Denial with an Alternate Recommendation. (Council District 4) (Kayla Leal, Senior Planner (210) 207-0197, Kayla.Leal@sanantonio.gov, Development Services Department)

Staff stated 37 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition. No response from the Quintana Community Neighborhood Association.

**Edgar Sanchez, 1912 West Mayfield Boulevard** – Applicant requesting variance to allow for the construction of a new home. The new home will bring value to the neighborhood.

**Public Comment:**

Nurtello Vasquez, 1910 West Mayfield Boulevard – In favor (speaker)

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-20-10300099 as presented.

Mr. Teel made a **motion** for BOA-20-10300099 for Approval.

“Regarding Case No. BOA-21-10300099, I move that the Board of Adjustment grant a request for 1) a 420 square-foot variance from the minimum 6,000 square foot requirement to allow a lot size of 5,580 square feet, 2) a 1' variance from the minimum 20' garage setback to allow a garage to be 19' away from the front property line, and 3) a 7' variance from the minimum 20' rear setback to allow a residential structure to be 13' away from the rear property line, situated at 1912 West Mayfield Boulevard, applicant being Edgar Sanchez, 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 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 development meets the side and front setbacks, and the variance to the rear setback will create 13' of separation from the property line. It appears that the requested variances are not contrary to the public interest.**
- 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. A literal enforcement of the ordinance would result in the applicant adjusting the setbacks for the dwelling and the garage. The lot size variance is required in order to successfully be granted a COD.**

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 variances for the lot size and the garage setback maintain the spirit of the ordinance and substantial justice will be done.*
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 lot size, rear setback, and garage setback 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.*
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 and is not merely financial.”*

**Second:** Bragman

**In Favor:** Menchaca, Cruz, Manna, Bragman, Ingalls, Lynde, Kaplan, Vasquez, Teel, Ozuna, Oroian

**Opposed:** None

**Motion Granted**

**Item #7**

**BOA-21-10300100:** A request by Daniel Moreno for 1) a 25 square-foot variance from the minimum 4,000 square foot requirement to allow a lot size of 3,975 square feet, 2) a 2' variance from the minimum 5' side setback requirement to allow a residential structure to be 3' from the side property line, and 3) a 4' 7" variance from the minimum 20' rear setback to allow a residential structure to be 15' 5" away from the rear property line, located at 2723 Chihuahua Street. Staff recommends Approval. (Council District 5) (Kayla Leal, Senior Planner (210) 207-0197, Kayla.Leal@sanantonio.gov, Development Services Department)

Chair Oroian asked for a motion for item BOA-20-10300100, be continued to the October 4, 2021 Board of Adjustment meeting.

Ms. Bragman made a **motion** for BOA-20-10300100 to be continued

**Second:** Oroian

**In Favor:** Menchaca, Cruz, Manna, Bragman, Ingalls, Lynde, Kaplan, Vasquez, Teel, Ozuna, Oroian

**Opposed:** None

**BOA-21-10300100** will be continued to the October 4, 2021, Board of Adjustment meeting.

**Item #8 BOA-21-10300101:** A request by Oscar Patino for a 9' 11" variance from the minimum 10' front setback requirement to allow a detached carport to be 1" from the front property line, located at 10518 Kinderhook Drive. Staff recommends Approval. (Council District 4) (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, 0 returned in favor, 0 returned in opposition. No response from the Heritage Neighborhood Association.

**Oscar Patino, 10518 Kinderhook Drive** – The carport is needed to provide protection of vehicles.

**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-20-10300101, as presented

Ms. Bragman made a **motion** for BOA-20-10300101 for approval

“Regarding Case No. BOA-21-10300101, I move that the Board of Adjustment grant a request for 9’ 11” variance from the 10’ minimum front setback requirement to allow a detached carport to be 1” from the front property line, situated at 10518 Kinderhook Drive, applicant being Oscar Patino, 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 setback for a detached carport, which is not contrary to the public interest and does not pose any adverse effects.**
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 the unnecessary hardship.**
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*  
**The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. With the structure facing Kinderhook Drive maintaining 1” from the front property line and still maintaining the driveway approach, the spirit of the ordinance will be observed and substantial justice will be done.**

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 detached carport will maintain 1” from the front property line which is not likely to alter the essential character of the district. Many other carports were observed in the surrounding area with similar front setback encroachments.**
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.*  
**It appears the plight of the owner of the property for which the variance is sought is not due to unique circumstances existing on the property. The carport already existed and encroached into the northern front setback. The circumstances were not created by the owner and are not merely financial.”**

**Second:** Manna

**In Favor:** Menchaca, Cruz, Manna, Bragman, Ingalls, Lynde, Kaplan, Vasquez, Teel, Ozuna, Oroian

**Opposed:** None

**Motion Granted**

**Item #10** Consideration and approval of August 16, 2021 Board of Adjustment meeting minutes.

**Motion:** Chair Oroian asked for a motion for approval of August 16, 2021 minutes.

Mr. Teel made a **motion** for approval of the August 16, 2021 minutes.

**Second:** Cruz

**In Favor:** Menchaca, Cruz, Manna, Bragman, Ingalls, Lynde, Kaplan, Vasquez, Ozuna, Oroian

**Opposed:** None

**Minutes approved**

**Director’s Report:** Orientation for new alternates beginning at 11:00 am on September 20, 2021, before the Board of Adjustment meeting.

**Adjournment**

There being no further business, the meeting was adjourned at 3:37 p.m.

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

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

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

DRAFT