

City of San Antonio



Board of Adjustment Minutes

Development and Business Services

Center

1901 South Alamo

October 7, 2019

1:00PM

1901 S. Alamo

Board of Adjustment Members

A majority of appointive Members shall constitute a quorum.

Roger F. Martinez, District 10, Chair

Alan Neff, District 2, Vice Chair

Donald Oroian, District 8, Pro-Tem

Seth Teel, District 6 | Dr. Zottarelli, District 1 | Maria Cruz, District 5 | Phillip Manna, District 7 |
George Britton, District 4 | Henry Rodriguez, Mayor | Kimberly Bragman, District 9 |
Reba N. Malone, District 3

Alternate Members

Cyra M. Trevino | Vacant | Arlene B. Fisher | Eugene A. Polendo |
Vacant | Vacant

1:08 P.M. - Call to Order, Board Room

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

Gabriela Barba and Maria E. Murray, SeproTec translators were present.

**THE FOLLOWING ITEMS MAY BE CONSIDERED AT ANY TIME DURING THE
REGULAR BOARD OF ADJUSTMENT MEETING:**

*Public Hearing and Consideration of the following Variances, Special Exceptions, Appeals,
as identified below*

Pledge of Allegiance

- Item # 3** **BOA-19-10300097**: A request by Laurie Cassidy for a 22' variance from the 30' Type E landscape bufferyard requirement to allow a bufferyard to be 8' along the rear yard property line located at 11722 Jones Maltsberger Road. Staff recommends Approval. (Council District 9) (Debora Gonzalez, Senior Planner (210) 207- 3074, debora.gonzalez@sanantonio.gov, Development Services Department)

Staff stated 15 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition. Property not located within a registered neighborhood association.

Kevin Love, KL Engineering, 22610 US Hwy 281, spoke about request for variance for bufferyard to be 8'.

No Citizens appeared to speak

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.

Motion: Chair Martinez asked for a motion for item BOA-19-10300097, as presented

Ms. Bragman made a **motion** for BOA-19-10300097 for approval

Regarding Case No. BOA-19-10300097, I move that the Board of Adjustment grant a 22' variance from the 30' Type E landscaped bufferyard requirement to allow a bufferyard to be as narrow as 8' along the rear yard property line, situated at 11722 Jones Maltsberger Road, applicant being Laurie Cassidy, 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 8' bufferyard is not contrary to public interest as it does not negatively impact any surrounding properties or the general public. As of now, the property has no bufferyards established, so any new development will be beneficial and a net improvement to the surrounding district.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
Literal enforcement would not allow the redevelopment of the now vacant property as proposed due to the established bufferyard requirement.
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*
In this case, the proposed bufferyard will adhere to the spirit of the ordinance and substantial justice will be done by implementing an 8' bufferyard where none exists currently in order to develop the property.

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 in the zoning district.
5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*
The introduction of an 8' bufferyard would only enhance the overall appearance of the property, streetscape, and 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 plight of the owner for which the variance is sought is due to the owner buying into a vacant property that had nonexistent bufferyards to begin with.

Second: Mr. Oroian

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

Opposed: None

Motion Granted

Item # 4 **BOA-19-10300105:** A request by Curtis Muller for an appeal of the Historic Preservation Officer's decision to deny a Certificate of Appropriateness, located at 534 Mission Street. Staff recommends Denial. (Council District 1) (Stephanie Phillips, Senior Historic Preservation Specialist, Office of Historic Preservation, (210)

Staff stated 33 notices were mailed to property owners within 200 feet, 3 returned in favor, and 0 returned in opposition. King William Neighborhood Association opposed.

Curtis Muller, 534 Mission Street, spoke of the need for Homeowner, Joshua Thomas, to put the solar panels on roof due to shadow lines on the garage.

No Citizens appeared to speak

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.

Motion: Chair Martinez asked for a motion for item BOA-19-10300105, as presented

Mr. Oroian made a **motion** for BOA-19-10300105 for approval

Regarding Appeal No. BOA-19-10300105, I move that the Board of Adjustment grant the appeal of the Historic Preservation Officer's decision to deny a Certificate of Appropriateness, situated at 534 Mission Street, applicant being Curtis Muller 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 applicant is correct in asserting that the Historic Preservation Officer incorrectly denied the applicant's request to install solar panels.

Second: Mr. Teel

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

Opposed: None

Motion Granted

Item #5 **BOA-19-10300107:** A request by Pamela Carpenter for a 4' variance from the 5' side setback requirement to allow a detached accessory dwelling unit to be 1' from the west property line, located at 314 West Elsmere Place. Staff recommends Approval. (Council District 1) (Debora Gonzalez, Senior Planner (210) 207- 3074, debora.gonzalez@sanantonio.gov, Development Services Department

Staff stated 25 notices were mailed to property owners within 200 feet, 1 returned in favor, and 0 returned in opposition. No comment from Monte Vista Neighborhood Association.

Pam Carpenter, spoke about the design of the addition, and the need of the variance.

No Citizens appeared to speak

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.

Motion: Chair Martinez asked for a motion for item BOA-19-10300107, as presented

Mr. Manna made a **motion** for special exception for BOA-19-10300107 for approval

Regarding Case No. BOA-19-10300107, I move that the Board of Adjustment grant 4' variance from the 5' side setback requirement to allow a detached accessory dwelling unit to be 1' from the west property line, situated at 314 West Elsmere Place, applicant being Pamela Carpenter, 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 already existing structure is only been rehabilitated and the footprint is not expanding.

The Board finds the request is not contrary to the public interest.

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

Due to the structure existing as detached accessory dwelling unit, a literal enforcement of the ordinance would result in unnecessary hardship by requiring the entire structure be moved to meet the setback.

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

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

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

The requested variance will not authorize the operation of a use on the subject property other than those specifically authorized in zoning district.

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

This variance would not substantially injure or alter the use or character of the district. Specifically, the variance would not place the structure out of character within the community.

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 are neither due to the general conditions of the district, nor due to the owner, and is not financial in nature. The characters of side yards within the district are predominantly compact, leaving little room for proper building setbacks.

Second: Dr. Zottarelli

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

Opposed: None

Motion Granted

Chair Martinez called for the **Board of Adjustment** to take a recess at 2:15 pm. Board resumed at 2:26 pm

Item #6 **BOA-19-10300114:** A request by Elbert Anthony Fuqua for a 4'11" variance from the 5' side setback requirement to allow two new structures to be 1' from the east and west property line, located at 400 Montana Street. Staff recommends Denial with an Alternate Recommendation. (Council District 2)

(Debora Gonzalez, Senior Planner (210) 207- 3074, debora.gonzalez@sanantonio.gov, Development Services Department)

Staff stated 32 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition. No response from Alamodome Gardens Neighborhood Association.

Elbert Antony Fuqua, 400 Montana Street, spoke of the property setback and need for variance.

The following Citizens appeared to speak

David Malley, 302 Montana, spoke in favor of variance

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.

Motion: Chair Martinez asked for a motion for item BOA-19-10300114, as presented

Mr. Oroian made a **motion** for BOA-19-10300114 for approval with amendments

Regarding Case No. BOA-19-10300114, I move that the Board of Adjustment grant a 4'11" variance from the 5' side setback requirement **on the west side of property and grant a 2' variance of the 5' side setback on the east side of the property** 2 to allow two new structures to be 1" from the **west property and 3' on the east side** property lines and , situated at 400 Montana Street, applicant being Elbert Anthony Fuqua, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

The variance is not contrary to the public interest because the applicant's proposed structures are maintaining and adding residential uses.

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

The special condition present in this case is the applicant's property is sufficiently large enough to accommodate both residential structures.

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

Substantial justice will be done in that neighborhood by maintaining and adding residential structures that will contribute to the housing stock in the City.

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 requested variance will not authorize the operation of a use on the subject property other than those specifically authorized in 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 requested variance will not detract from the character of the community.

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

The unique circumstance existing on this case is that the applicant plans to reduce the side setbacks on both residential structures, which the applicant has more than enough space for both residential structures.

Second: Mr. Teel

In Favor: Oroian, Teel, Zottarelli, Bragman, Cruz, Britton, Manna, Fisher, Trevino

Opposed: Neff, Martinez

Motion Granted

Item #7

BOA-19-10300108: A request by Daniel Moreno for 1) a 6' variance from the 20' rear setback requirement to allow a new house to be 14' away from the rear property line, 2) a 4" variance from the 20' garage setback requirement to allow a garage to be 19'6" from the property line, located at 6358 Hazel Valley Drive. Staff recommends Approval. (Council District 4) (Rachel Smith, Planner (210) 207-5407, rachel.smith@sanantonio.gov, Development Services Department)

Staff stated 24 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition. No response from People Active in Community Neighborhood Association.

Daniel Moreno, 6358 Hazel Valley Dr, Builder, explained the need for the variance for the setback for the garage

No Citizens appeared to speak

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.

Motion: Chair Martinez asked for a motion for item BOA-19-10300108, as presented

Ms. Cruz made a **motion** for BOA-19-10300108 for approval

Regarding Case No. BOA-19-10300108, I move that the Board of Adjustment grant a 6' variance from the 20' rear setback requirement to allow a new house to be 14' away from the rear property line and a 6" variance from the 20' garage setback requirement to allow a garage to be 19'6" from the property line, situated at 6358 Hazel Valley Drive, applicant being Daniel Moreno, 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 the general health, safety, and welfare of the community. The requested variances will not injure the rights of adjacent property owners.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
An unnecessary hardship would result from the literal enforcement of the ordinance in that the property owner would need to modify the already constructed garage and rear portion of the home, which would be an extreme hardship.
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*
The granting of the requested variances would be in harmony with the spirit of the ordinance. The intent of the setback requirements is to prevent unnecessary trespass on adjacent property for maintenance, fire safety, and ensure proper stormwater management. All of these intents will still be maintained with the granting of this request.
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 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.*
These variances would not substantially injure or alter the use or character of adjacent conforming property or 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 unique situation existing on the property is the odd shape of the lot which limits the house design.

Second: Mr. Neff, made a motion to make friendly amendment to make a correct to the variance to read as advertised to the public. **Ms. Cruz** was in favor of the amendment.

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

Opposed: None

Motion Passes

Item #8 **BOA-19-10300113:** A request by Joe Gutierrez for a 4' variance from the 5' side setback requirement to allow an attached addition to be 1' from the side property line, located at 10111 Cedarvale Drive. Staff recommends Denial. (Council District 4) (Rachel Smith, Planner (210) 207-5407, rachel.smith@sanantonio.gov, Development Services Department)

Staff stated 25 notices were mailed to property owners within 200 feet, 0 returned in favor, and 1 returned in opposition. No comment from Heritage Neighborhood Association.

Joe Gutierrez, 10111 Cedarvale Drive, spoke of need for the variance for the attached addition for rehabilitation for medical reasons.

No Citizens appeared to speak

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.

Motion: Chair Martinez asked for a motion for item BOA-19-10300113, as presented

Mr. Oroian made a **motion** for BOA-19-10300113 for approval

Regarding Case No. BOA-19-10300113, I move that the Board of Adjustment grant a 4' variance from the 5' side setback requirement to allow an attached addition to be 1' from the side property line, situated at 10111 Cedarvale Dr, applicant being Joe Gutierrez, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

1. *The variance is not contrary to the public interest.*
The public interest is defined as the general health, safety, and welfare of the public. In this case, the variance is not contrary to the public interest as the addition does not negatively impact any surrounding properties or the general public. The addition is abutted by a privacy fence that screens the addition from view.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
Strict enforcement would result in the removal of the addition which is attached to the principal structure.
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 requirement rather than the strict letter of the law. The addition is not overwhelming in size compared to the principal structure and is hidden from the right-of-way view due to the 6' privacy fence.
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 variance to the addition is unlikely to injure the appropriate use of adjacent conforming properties. The addition is located behind a 6' privacy fence and there is space for water runoff and long term maintenance without intruding onto the neighboring property.

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

The unique circumstance existing on the property is that the addition is already constructed and is not merely financial in nature.

Second: Mr. Manna

In Favor: Oroian, Manna, Teel, Zottarelli, Bragman, Britton, Neff, Fisher, Martinez

Opposed: Cruz, Trevino

Motion Passes

Item #9 **BOA-19-10300109:** A request by Florabella Castillo for 1) a 4'11" variance from the 5' side setback requirement to allow an attached carport to be 1" from the east property line, 2) a 2' variance from the 10' front setback requirement to allow an attached carport to be 8' from the north property line, and 3) a special exception to allow a wrought iron fence to be 6' tall in the front yard, located at 1544 West Agarita Avenue. Staff recommends Denial with an Alternate Recommendation. (Council District 4) (Rachel Smith, Planner (210) 207-5407, rachel.smith@sanantonio.gov, Development Services Department)

Staff stated 20 notices were mailed to property owners within 200 feet, 1 returned in favor, and 0 returned in opposition. No comment from Jefferson Neighborhood Association.

Florabella & Julie Castillo, applicant, spoke of need for the attached carport for protection from the elements, crime and for the children.

No Citizens appeared to speak

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.

Motion: Chair Martinez asked for a motion for item BOA-19-10300109, as presented

Mr. Oroian made a **motion** for BOA-19-10300109 for approval

Regarding Case No. BOA-19-10300109, I move that the Board of Adjustment grant 1) a 2' variance from the 5' side setback requirement to allow an attached carport to be 3' from the east property line, applicant being Florabella Castillo, 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 for the variance:

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 carport provides necessary shelter for the applicant's vehicles and does not detract from the character of the area. The posts and roof are placed behind the fence and constructed of metal that reduces the risk of fire spread.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
Literal enforcement of the ordinance would not grant the applicant the right to protect their vehicles.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*
In this case, the intent is to provide enough of a setback to prevent fire spread and water runoff to adjacent properties. The carport is made of metal, which will reduce the likelihood of fire spread. The neighboring property owner did give their consent to construct the carport and has no concerns about water runoff onto their property.

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 adjacent properties are unlikely to be negatively affected by the requested. While the carport is unique on their street, other properties in the area do have a carport. The request would not be out of character in 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 carport serves to provide safe route for the owner to access their home from their vehicle in the case of inclement weather. Severe weather conditions can make it difficult to get from the home into the vehicle due to slippery conditions. The plight of the owner is not merely financial in nature.

Second: Dr. Zottarelli

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

Opposed: None

Motion Granted

Motion: Chair Martinez asked for a motion for the **special exception** for item BOA-19-10300109, as presented

Dr. Zottarelli made a **motion** for BOA-19-10300109 for approval

Regarding Case No. BOA-19-10300109, I move that the Board of Adjustment grant 3) a special exception to allow a wrought iron fence to be 6' tall in the front yard, situated at 1544 West Agarita Avenue, applicant being Florabella Castillo, 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 for the special exception:

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 up to eight feet. The additional one foot of fence height in the front yard 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 maximum fence heights to protect residential property owners while still promoting a sense of community. A 6' tall predominantly open fence in the front yard is not contrary to the public interest.
3. *The neighboring property will not be substantially injured by such proposed use.*
The fence enhances the security of the subject property and has been in place for more than 2 years. Further, the fencing does not violate Clear Vision standards.
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 fence provides a safe environment for the property owner while enhancing aesthesis in 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: Mr. Manna

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

Opposed: None

Motion Granted

Item #10 **BOA-19-10300115:** A request by Daniel Garcia for a 9' variance from the 10' front setback requirement to allow an attached carport to be 1' from the front property line, located at 232

Saddlebrook Drive. Staff recommends Denial. (Council District 4) (Rachel Smith, Planner (210) 207-5407, rachel.smith@sanantonio.gov, Development Services Department)

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

Daniel Garcia, 232 Saddlebrook Drive, applicant, spoke of need for attached carport to protect vehicles from the weather elements

No Citizens appeared to speak

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.

Motion: Chair Martinez asked for a motion for item BOA-19-10300115, as presented

Mr. Tee; made a **motion** for BOA-19-10300115 for approval

Regarding Case No. BOA-19-10300115, I move that the Board of Adjustment grant a 9' variance from the 10' front setback requirement to allow an attached carport to be 1' from the front property line, situated at 232 Saddlebrook Dr , applicant being Daniel Garcia, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

1. *The variance is not contrary to the public interest.*
The public interest is considered the general health, welfare, and safety of a community. The requested variance will not injure the adjacent property owners.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
An unnecessary hardship would result from the literal enforcement of the ordinance in that the property owner would need to modify the already constructed carport.
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*
The granting of the requested variances would be in harmony with the spirit of the ordinance. The intent of the setback requirements is to prevent unnecessary trespass on adjacent property for maintenance, fire safety, and ensure proper stormwater management. All of these intents will still be maintained with the granting of this request.
4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the zoning district in which the variance is located.*

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

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

This variance would not substantially injure or alter the use or character of adjacent conforming property or character of the district.

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 situation existing on the property is the carport was already constructed.

Second: Mr. Manna

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

Opposed: Martinez

Motion Passes

Item #11 Consideration and approval of the September 16, 2019 Board of Adjustment Minutes.

Chair Martinez **motioned** for approval of the September 15th minutes as corrected and all the Members voted in the affirmative.

Item #12 Approval of the 2020 Board of Adjustment Calendar

Chair Martinez **motioned** for approval of the September 15th minutes as corrected and all the Members voted in the affirmative.

Director's Report: Status of Board Appointments

Adjournment

There being no further business, the meeting was adjourned at 4:27 p.m.

APPROVED BY: Roger J. Mathis OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: M. Murphy DATE: Oct. 23, 19
Executive Secretary