

City of San Antonio



Board of Adjustment Minutes

Development and Business Services

Center

1901 South Alamo

February 1, 2021

1:00PM

Videoconference

Board of Adjustment Members

A majority of appointive Members shall constitute a quorum.

Vacant, Chair

Donald Oroian, District 8, Vice Chair

Andrew Ozuna, Mayor, Pro-Tem

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

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

Maria Cruz, District 5 | Seth Teel, District 6

Phillip Manna, District 7 | Kimberly Bragman, District 9

Jonathan Delmer, District 10

Alternate Members

Cyra M. Trevino | Anne Englert | Arlene B. Fisher | Vacant

Vacant | Kevin W. Love | Vacant

1:04 P.M. - Call to Order

- Roll Call

- Present: Schell, Love, Menchaca, Fisher, Teel, Manna, Bragman, Delmer, Ozuna, Oroian, Cruz (Mrs. Cruz joined the meeting at 1:32 pm)

- Absent: Britton, Battle

2 Translators from SeproTec were present to assist with translating.

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

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

- Item # 2** **BOA-20-10300127**: A request by Hoda Cummings for 1) an appeal of the Historic Preservation Officer's decision to issue a Certificate of Appropriateness, and 2) a 16' variance to the minimum Clear Vision of 25' to allow a front yard fence to be 9' away from the street, located at 431 Adams Street. Staff recommends Denial of the Appeal and Approval of the Clear Vision Variance. (Council District 1) (Cory Edwards, Deputy Historic Preservation Officer, Azadeh Sagheb, Planner (210) 207-5407, Azadeh.Sagheb@sanantonio.gov, Development Services Department)

Staff stated 32 notices were mailed to property owners within 200 feet, 13 returned in favor, and 0 returned in opposition. The King William Neighborhood Association is in opposition.

Hoda Cummings, 431 Adams Street – Requesting variance. Fence material is best. They foster dogs and some are small and wooden picket or wrought iron would not work.

Submitted Public Comment

Mickey Conrad, Chair, King William Association, 122 Madison St – In opposition

Nancy Diehl, 422 Adams St – In favor

Kevin Browne, 417 Adams St – In favor

Margiana Peterson-Rockney, 427 Wickes St – In favor

Maria Rodriguez, 419 Wickes St – In favor

Laura Kaupp Jensen, 506 Adams St – In favor

Romanita Matta-Barrera, 510 Adams – In favor

Billie Jo Gutierrez, 426 Adams St – In favor

Jacob Diez, 501 Wicks, In favor

Lori Hall, 423 Wickes St – In favor

Maria A. Barger, 502 Adams St – In favor

Jake Dady, 434 Adams St – In favor

Steven Kobernat/Michele Maxwell, 507 Adams St – In favor

Rick & Elaine Lutton, 427 Adams St – In favor

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

Chair Oroian asked for a motion for item BOA-20-10300127, as presented

Mr. Teel made a **motion** for BOA-20-10300127 for approval

“Regarding Case No. BOA 20 10300127, I move that the Board of Adjustment grant an appeal of the Historic Preservation Officer's inclusion of the following stipulation for approval of a new front yard fence: That the fencing material be modified to be more in keeping with the fence styles that are characteristic of the district, such as wood picket or wrought iron, for the property at 431 Adams Street, applicant being Hoda Cummings.”

Second: Schell

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

Opposed: None

Motion Granted

Chair Oroian asked for a motion for variance of item BOA-20-10300127, as presented

Mr. Teel made a **motion** for BOA-20-10300127 for approval

“Regarding Case No. BOA-20-10300127, I move that the Board of Adjustment grant a request for a 16’ variance to the minimum Clear Vision of 25’ to allow a front yard fence to be 9’ away from the street, situated at 431 Adams Street, applicant being Hoda Cummings, 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, due to the unique configuration of the corner lot, as well as the both types of materials being predominately open, the requested variance to Clear Vision is not contrary to the public interest.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
The requested variance is not contrary to the public interest and does not negatively impact any of the surrounding residents or uses. DSD Traffic Engineering does not have any issue with the clear vision encroachment as long as the proposed fence does not go beyond the property boundary and does not encroach the City’s Right of Way. Literal enforcement would not allow the fence to be built as proposed.
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*
The spirit of the ordinance is the intent of the code, rather than the strict letter of the law. The intent of the Clear Vision is to increase visibility when entering/existing properties and limit harm to passersby. The proposed fence meets intersection sight distance. By granting the variance, the spirit of the ordinance will be observed.
4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the zoning district in which the variance is located.*
The 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 requested variance to have a 9’ clear vision would not substantially injure or alter the use or character of adjacent conforming 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 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. Due to the location of the lot as a corner property, the Clear Vision variance needs to be requested to install a fence.”*

Second: Schell

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

Opposed: None

Motion Granted

Item #1 **Election of Officers**

Mr. Teel nominated Mr. Oroian for **Chair**. Nomination was seconded by Mrs. Cruz.
Voice vote all in favor, no oppositions.

Mrs. Cruz nominated Mr. Ozuna for **Vice Chair**. Nomination was seconded by Mr. Oroian.
Voice vote all in favor, no oppositions.

Mr. Love nominated Mr. Teel for **Pro Tem**. Nomination was seconded by Mr. Oroian.
Voice vote all in favor, no oppositions.

- Item #3** **BOA-20-10300070:** A request by Fernando De Leon for a 1,900 square feet variance from the minimum lot size square footage requirement of 4,000 to allow a lot to be 2,100 square feet, located at 1253 East Crockett Street. Staff recommends Approval. (Council District 2) (Azadeh Sagheb, Planner (210) 207-5407, Azadeh.Sagheb@sanantonio.gov, Development Services Department)

Staff stated 26 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition. No response from Dignowity Hill Neighborhood Association.

Fernando De Leon, 1253 East Crockett St – Requesting variance for lot size. The lot is small and hard to design a home on the property without the variance. Property has been vacant for over 5 years.

No Public Comments

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-20-10300170, as presented

Ms. Fisher made a **motion** for BOA-20-10300170 for approval

“Regarding Case No. BOA-20-10300070, I move that the Board of Adjustment grant a request for a 1,900 square feet variance from the minimum lot size square footage of 4,000 to allow a lot to be 2,100 square feet, situated at 1253 East Crockett Street, applicant being Fernando De Leon, 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 applicant is developing a vacant lot and the proposed design have been approved by the Office of Historic Preservation. The historic character of the surrounding community would be preserved.
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 unnecessary hardship and the applicant cannot build on this small size lot.
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*
The proposed design is in compliance with the setback requirement. The HRCd also determined its consistency with the surrounding historic properties. By granting of the variance, 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 Board finds the requested variance will 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. Due to the subdivided parcels, there are similar properties with small lot size within the neighborhood.
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 owner, nor due to financial. The reduced lot size is a common character of the neighborhood and applicant followed the historic design guidelines and received approval from the HDRC before starting to construct.”

Second: Ms. Bragman

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

Opposed: None

Motion Granted

Item #4 **BOA-20-10300120:** A request by Patrick Williams Christensen for a 40' variance to the minimum River Improvement Overlay (RIO-5) setback of 50' to allow the new residential units to be 10' away from the property line, located at 326 Riverside Drive. Staff recommends Approval (Council District 3) (Azadeh Sagheb, Planner (210) 207-5407, Azadeh.Sagheb@sanantonio.gov, Development Services Department)

Staff stated 9 notices were mailed to property owners within 200 feet, 1 returned in favor, and 0 returned in opposition. No Neighborhood Association.

Patrick Christensen, 326 Riverside Drive – Requesting setback variance to allow for the construction of 25 new residential units. Variance is needed so homes may be 10' from property line due to the narrow size of land.

Submitted Public Comment

James Lifshutz, 2450 Roosevelt – In favor

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

Motion: Chair Oroian asked for a motion for item BOA-20-10300120 as presented

Mr. Ozuna made a **motion** for BOA-20-10300120 for approval.

“Regarding Case No. BOA-20-10300120, I move that the Board of Adjustment grant a request for a 40' variance to the minimum River Improvement Overlay (RIO-5) setback of 50' to allow the new residential units to be 10' away from the property line, situated at 326 Riverside Drive, applicant being Patrick Christensen, 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 requested variance for the setback encroachment of the new residential units is not contrary to the public. The applicant is willing to build a pedestrian scale mixed-use node that is in harmony with the surrounding area.

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 unnecessary hardship and the development opportunities would be limited.
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 to ensure that development of an appropriate scale and design are placed along the river. The proposed development received approval from the HDRC. The spirit of the ordinance will be 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.*
No uses other than those permitted within the district will be allowed with this variance.
5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*
The requested variance for a lesser 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 would be 10' rear setback that would create a buffer space between the subject property and the river.
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 property has been utilized as manufactured home residential lot for many years. The unique circumstances existing on the property are neither due to the owner, nor due to financial. Board finds that the small and odd shape of the lot shall warrant the granting of this request."

Second: Bragman

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

Opposed: None

Motion Granted

Item #5

BOA-20-10300135: A request by Ziga Architecture Studio PLLC for a request for a 5' variance to the minimum 10' rear setback, to allow two structures to be 5' away from the rear property line. Staff recommends Approval. (Council District 2) (Mirko A. Maravi, Senior Planner, 210-207-0107, Mirko.Maravi@sanantonio.gov, Development Services Department)

Staff stated 22 notices were mailed to property owners within 200 feet, 0 returned in favor, and 5 returned in opposition. No response from Dignowity Hill Neighborhood Association.

Felix Ziga, 313 N Pine St – Requesting variance for rear setbacks to allow two new structures to be 5' away from rear property line. Project will provide two smaller homes for housing options in San Antonio.

Submitted Public comment

Dora Donel, 115 Potomac St. – In opposition

Monica Savino, 1120 E Crockett & 119 Potomac St. – In opposition

Maria G. Salazar, 109 Potomac St. – In opposition

E Kendall, 1130 E Crockett – In opposition

Richard Gabriel, 1126 E Crockett – In opposition

Antonio Garcia, 243 E Huisache – In opposition

Dette Cole, 105 Reno St – In opposition

Terry Castillo, 521 Torreon – In opposition

Jim Gipson, 711 Center St. – In opposition

Mary Johnson, President, Monte Vista NA 125 W Ridgewood Court, – In opposition

Cynthia Spielman, 900 W Woodlawn, President Beacon Hill NA – In opposition

Margaret Leeds, 308 King William – In opposition

Mark Kusey, 1120 E Crockett St. – In opposition

Steve Versteeg, 105 Reno – 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.

Motion: Chair Oroian asked for a motion for item BOA-20-10300135 as presented

Mr. Manna made a **motion** for BOA-20-10300135 for approval.

“Regarding Case No. BOA-20-10300135, I move that the Board of Adjustment grant a request for a 5’ variance to the minimum 10’ rear setback, as described in Section 35-310.01, to allow two structures to be 5’ away from the rear property line, situated at 313 N Pine St., applicant being Ziga Architecture Studio PLLC, 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 rear setback variance of 5'-0" is not contrary to the public interest.

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

Literal enforcement of the ordinance would directly impact the feasibility of the new construction project as envisioned by the owners and designed, and as approved by the Office of Historic Preservation and the Historic & Design Review Commission.

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

By granting of the variance, 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 in the zoning district in which the variance is located.*

This variance request only affects the minimum rear setback and allowable buildable area and does not impact the operation of a use not specifically authorized for the RM-4 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 substantially injure the appropriate use of adjacent conforming property or alter the essential character of the neighborhood. Many neighboring properties have reduced rear setbacks due to the historic character of the neighborhood and evolution of the urban fabric, and subdivision of lot parcels through the years.

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 of this property that create the plight of the owner are the corner lot conditions, historic design guidelines, and project design as approved by the Office of Historic Preservation and the Historic & Design Review Commission. The unique circumstances were not created by the current owner of the property and are not merely financial and are not due to the result of general conditions in the district in which the property is located.”

Second: Bragman

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

Opposed: Schell, Cruz, Manna

Motion Fails

Motion: Chair Oroian asked for a motion to reconsider BOA-20-10300135

Mr. Manna made a **motion** to reconsider for BOA-20-10300135 for approval.

Second: Ozuna

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

Opposed: None

Motion to reconsider Granted

Ms. Schell made a **motion** to continue case BOA-20-10300135 until the Board of Adjustment meeting on March 1, 2021.

Second: Manna

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

Opposed: None

Motion Granted

Chair Oroian called for the Board of Adjustment to take a recess at 3:37 p.m. The Board of Adjustment returned at 3:45 p.m.

Item #6 **BOA-20-10300126:** A request by Travis Louie for a 1’4” variance to the minimum side setback of 5’ to allow an addition with no overhang to be 3’8” away from the side property line, located at 126 Paul Street. Staff recommends Approval. (Council District 2) (Azadeh Sagheb, Planner (210) 207-5407, Azadeh.Sagheb@sanantonio.gov, Development Services Department)

Staff stated 45 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition. The Denver Heights Neighborhood Association is in opposition.

Travis Louie, 126 Paul Street – Representing property owner. Requesting setback variance to allow for addition to be 3’8” from property line. Addition has been constructed and does not have an overhang.

Submitted Public comment

Aubry C. Lewis, President, Denver Heights NA – 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.

Motion: Chair Oroian asked for a motion for item BOA-20-10300126, as presented

Mrs. Cruz made a **motion** for BOA-20-10300126 for approval.

“Regarding Case No. BOA-20-10300126, I move that the Board of Adjustment grant a request for a 1’4” variance to the minimum side setback of 5’ to allow an addition with no overhang to be 3’8” away from the side property line, situated at 126 Paul Street, applicant being Travis Louie, 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 constructed attached addition is not contrary to public interest as it does not negatively impact any surrounding neighbors or the general public. The addition is in-line with the original building and encroaches 1'4" into the side setback.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
Staff finds that any special conditions that, if enforced, would result in unnecessary hardship. The applicant already constructed the new addition and if the variance is not granted the structure would have to be demolished.
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*
The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. The size of constructed addition is not overwhelming compared to the main structure. It allows adequate space for maintenance of the structure without trespass.
4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the zoning district in which the variance is located.*
No uses other than those permitted within the district will be allowed with this variance.
5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*
The request to reduce 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.
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. Given the new addition being in-line with the primary structure, the requested variance is in harmony with the character of the surrounding vicinity."

Second: Manna

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

Opposed: None

Motion Granted

- Item #7** **BOA-20-10300132:** A request by Caroline Randle for 1) a special exception to allow a front yard fence and side yard fence to be 8' tall and 2) a 3' 2" variance from the minimum Clear Vision requirement of 15' to allow a front yard fence to be 11' 10" from the street, located at 5927 Iris Isle. Staff recommends Approval. (Council District 2) (Kayla Leal, Senior Planner (210) 207-0197, kayla.leal@sanantonio.gov, Development Services Department)

Staff stated 42 notices were mailed to property owners within 200 feet, 0 returned in favor, and 1 returned in opposition. No response from NE Crossing HOA Neighborhood Association.

Carolyn Randle, 5927 Iris Isle – Requesting a special exception/variance to build an 8' solid privacy fence in the front and side of the yard. The fence is needed for privacy and protection of property.

Submitted Public comment

Gregg Hulon, 5931 Bridle Bend – In opposition

Shirley R. Hall, 7219 Hibiscus Falls – Neither in favor/opposition

Jeffrey & Carol Rose, 5931 Iris Isle – 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.

Motion: Chair Oroian asked for a motion for item BOA-20-10300132 as presented

Mr. Ozuna made a **motion** for BOA-20-10300132 for approval.

“Regarding Case No. BOA-20-10300132, I move that the Board of Adjustment grant 1) a special exception to allow a front yard fence and side yard fence to be 8' tall **from front to rear and 6' front to forward**, situated at 5927 Iris Isle, applicant being Carolyn Randle, 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 safety and security of the applicant's property.
2. *The public welfare and convenience will be substantially served.*
An 8' fence along the side yard from front to rear and 6' front to forward will provide additional security for the applicant's property. This will substantially serve the public welfare and convenience.
3. *The neighboring property will not be substantially injured by such proposed use.*
The fence will create enhanced security and privacy for the subject property and is highly unlikely to injure adjacent properties.

4. *The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought.*

The special exception for the fence height does not detract from the character of the neighborhood.

5. *The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district.*

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

Second: Schell

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

Opposed: Love

Motion Granted

Motion: Chair Oroian asked for a motion for the variance of item BOA-20-10300132 as presented

Mr. Ozuna made a **motion** for BOA-20-10300132 for approval.

"Regarding Case No. BOA-20-10300132, I move that the Board of Adjustment grant a request for 2) a 3' 2" variance from the minimum Clear Vision requirement of 15' to allow a front yard fence to be 11' 10" from the street, situated at 5927 Iris Isle, applicant being Carolyn Randle, 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 variance requested to encroach into the clear vision has been reviewed by DSD Traffic Staff and is not expected 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.

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 fence is to protect residential property owners while still promoting a sense of community which is being observed with 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 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 Board finds the request to reduce the 15' clear vision area 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 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."

Second: Cruz

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

Opposed: None

Motion Granted

Mr. Ozuna left the Board of Adjustment meeting at 4:49 pm.

Item #8 **BOA-20-10300139:** A request by Angel Martinez for 1) a special exception to allow a fence to be 6' 4" tall in the front yard, 2) a variance to allow corrugated metal as a fencing material, and 3) a 4' 8" variance from the minimum Clear Vision requirement of 15' to allow a front yard fence to be 10' 4" from the street, located at 3027 Nantucket Drive. Staff recommends Approval. (Council District 9) (Kayla Leal, Senior Planner (210) 207-0197, kayla.leal@sanantonio.gov, Development Services Department)

Staff stated 24 notices were mailed to property owners within 200 feet, 1 returned in favor, and 1 returned in opposition. No response from Vance Jackson Neighborhood Association.

Angel Martinez, 3027 Nantucket – Homeowner is requesting a special exception and variances to allow them to keep their front yard fence and corrugated metal fencing gates. The fence was installed to keep passing children from cutting along their property to walk in the adjacent ditch.

Submitted Public comment

Ronald Renouf, 3023 Nantucket – In opposition

Anne Marie Mullen, 3026 Nantucket – In favor

Michael Zahn – 3040 Nantucket – 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.

Motion: Chair Oroian asked for a motion for item BOA-20-10300139 as presented

Ms. Bragman made a **motion** for BOA-20-10300139 for approval.

“Regarding Case No. BOA-20-10300139, I move that the Board of Adjustment grant 1) a special exception to allow a fence to be 6’ 4” tall in the front yard, situated at 3027 Nantucket Drive, applicant being Angel 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 special exception will be in harmony with the spirit and purpose of the chapter.*
The requested special exception to increase the front yard fence height is intended to provide safety and security of the subject property. The additional fence height would be in harmony with the spirit and purpose of the ordinance.
2. *The public welfare and convenience will be substantially served.*
The Board finds the property is directly adjacent to a drainage ditch. The 6’ 4” front yard fence on one side of the property will provide additional security and is not contrary to the public interest as it is not directly adjacent to another single-family home.
3. *The neighboring property will not be substantially injured by such proposed use.*
The fence will create enhanced security and privacy for the subject property and is highly unlikely to injure adjacent properties.
4. *The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought.*
The special exception for the fence height does not detract from the character of the neighborhood.
5. *The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district.*
The current zoning permits the current use of a single-family home. The requested special exception will not weaken the general purpose of the district.”

Second: Cruz

In Favor: Bragman, Cruz, Fisher, Teel

Opposed: Schell, Love, Menchaca, Manna, Delmer, Oroian

Motion Fails

Motion: Chair Oroian asked for a motion for the variance for item BOA-20-10300139 as presented No motion for approval was made, motion died.

Item #8 Consideration and approval of the January 11, 2021 Board of Adjustment Minutes.

Motion: Chair Oroian asked for a motion for approval of the January 11, 2021 minutes as presented.

Mrs. Cruz made a **motion** for approval of January 11, 2021 minutes

Second: Manna

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

Opposed: None


Minutes Approved

Adjournment

There being no further business, the meeting was adjourned at 5:23 p.m.

APPROVED BY:  OR _____
Chairman Vice-Chair

DATE: 3-2-2021

ATTESTED BY:  DATE: 03/02/2021
Executive Secretary