



Board of Adjustment Minutes

Development and Business Services

Center

1901 South Alamo

March 21, 2022

1:00PM

1901 S. Alamo

Board of Adjustment Members

A majority of appointive Members shall constitute a quorum.

Donald Oroian, District 8, Chair
Andrew Ozuna, Mayor, Vice Chair
Seth Teel, District 6, Pro-Tem

Vacant, District 1 | Scott Albert, 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

Vacant | Elizabeth Ingalls | Jo-Anne Kaplan | Lisa Lynde
Lillian Miess | Jesse Vasquez | Jesse Zuniga

1:00 P.M. - Call to Order

- **Roll Call**
- **Present:** Albert, Menchaca, Zuniga, Manna, Bragman, Kaplan, 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 #2 **(Continued from 02/07/2022) BOA-21-10300157:** A request by Felise De Novo for a 2' special exception to allow an 8ft solid screened privacy fence along the side and rear property lines, located at 519 West King's Highway. Staff recommends Denial. (Council District 7) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Felise De Novo, applicant, requested a continuance until the April 18, 2022, Board of Adjustment meeting.

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-21-10300157 as presented.

Teel made a **motion** for item BOA-21-10300157 to be continued to April 4, 2022.

Second: Ozuna

In Favor: Kaplan, Albert, Menchaca, Zuniga, Manna, Bragman, Teel, Ozuna, Oroian

Opposed: None

Motion Granted for a continuance for BOA-21-10300157 to April 18, 2022.

Item #3 **(Continued from 02/21/2022) BOA-21-10300175:** A request by Shaun Cane for a special exception from the Short-Term Rental density limitation to allow one (1) additional Type 2 Short Term Rental Permit on the blockface, located at 700 Dawson Street. Staff recommends Denial. (Council District 2) (Kayla Leal, Principal Planner (210) 207-0197, Kayla.Leal@sanantonio.gov, Development Services Department)

No action was taken. Item BOA-21-10300175 was Withdrawn.

Item #4 **BOA-22-10300026:** A request by ISRO Engineering Services, PLLC for a variance from the frontage requirement to allow the frontage of a single-family residential lot on a Secondary Arterial B street, located at 721 Iowa Street. Staff recommends Denial. (Council District 2) (Rebecca Rodriguez, Planner, (210) 207-0120, Rebecca.Rodriguez@sanantonio.gov, Development Services Department)

Fernando Botello, representative, requested a variance to allow the frontage to face Iowa Street.

No Public Comment

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

Chair Oroian asked for a motion for item BOA-22-10300026.

Ozuna made a **motion** for BOA-22-10300026 for Approval.

Regarding Case No. BOA-22-10300026, I move that the Board of Adjustment grant a request for a variance from the frontage requirement to allow frontage for a residential lot to front on a Secondary Arterial Type B street, situated at 721 Iowa Street, applicant being ISRO Engineering Services, 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 public interest is defined as the general health, safety, and welfare of the public. The request is to allow residential structures to have a frontage located on a Secondary Arterial B Street does not appear to be contrary to the public interest as the applicant has adequate space for a driveway approach.

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 owner would have to redesign the plans and change the address to have the property front Spruce Street.

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 frontage requirement is to allow access into the lot. The access off Iowa Street appears to observe 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 request for a frontage requirement on a Secondary Arterial Type B for the proposed development does not pose a risk of substantially injuring the use of adjacent properties and does not seem likely to alter the essential character of the district. There are other non-conforming lots found in proximity to the site.

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. The property is a corner lot and prior to the demolition of the residence, the previous residence also fronted off Iowa Street.

Second: Teel

In Favor: Kaplan, Albert, Menchaca, Zuniga, Manna, Bragman, Teel, Ozuna, Oroian

Opposed: None

Motion Granted.

Item #5

BOA-22-10300016: A request by Jason Reed for a 10' variance from the minimum 15' landscape bufferyard requirement to allow a 5' landscape buffer, located at 1735 South WW White Road. Staff recommends Denial. (Council District 2) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Applicant requested a continuance until the April 4, 2022, Board of Adjustment meeting.

Public Comment:

Anita Franklin, 4811 Dellcrest, spoke in favor.

Chair Oroian asked for a motion for item BOA-22-10300016 as presented.

Bragman made a **motion** for BOA-22-10300016 to be continued to April 4, 2022.

Second: Kaplan

In Favor: Kaplan, Albert, Menchaca, Zuniga, Manna, Bragman, Teel, Ozuna, Oroian

Opposed: None

Motion Granted for a continuance for BOA-22-10300016 to April 4, 2022.**Item #6**

BOA-22-10300029: A request by Gerardo Garcia for Special Exceptions from the Short-Term Rental Density Limitation to allow two (2) Type 2 Short-Term Rental permits on the blockface, located at 410 Barrera Street. Staff recommends Denial. (Council District 1) (Joshua Orton, Senior Planner, (210) 207-7945, Joshua.Orton@sanantonio.gov, Development Services Department)

Staff stated 15 notices were mailed to property owners within 200 feet, 0 returned in favor, 1 returned in opposition, and no response from the Lavaca Neighborhood Association.

Perla Marines, applicant, requested two additional short-term rentals.

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-22-10300029 as presented.

Teel made a **motion** for BOA-22-10300029 for Approval.

Regarding Case No. BOA-22-10300029, I move that the Board of Adjustment grant a special exception to allow for (2) Type 2 short term rental units, situated at 410 Barrera, applicant being Gerardo 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:

A. The special exception will not materially endanger the public health or safety.

The Board finds that the request to operate a two additional short-term rentals is unlikely to materially endanger the public health, safety, or welfare. There is nothing obvious that would distinguish a short-term rental versus a long term rental at this facility.

B. The special exception does not create a public nuisance.

The Board finds that there are a total of five (5) residential units on this blockface and the special exception would permit a total of three (3) Type 2 short term rentals, resulting in 60% of the blockface. There does not appear to be a reason to believe a public nuisance would be created if these permits were approved.

C. The neighboring property will not be substantially injured by such proposed use.

The neighboring properties consist of single-family structures, school district offices, and multifamily residences. This unique scenario does not cause reason to believe it will substantially injure neighboring property as a Type 2 Short Term Rental.

D. Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary faculties have been or are being provided.

The subject property provides off-street parking and appears to have adequate utilities, access, and open space.

E. The applicant or owner for the special exception does not have any previously revoked short-term rental licenses, confirmed citations, or adjudicated offenses convictions for violations of Chapter 16, Article XXII of the City Code within one year prior to the date of the application.

The applicant currently operates a short-term rental at 414 Barrera and does not have any history of revocation, citations, or convictions for violations of Chapter 16.

F. 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 subject property is located in close proximity to commercial, office space, and other residential uses of varying intensity. With the property owner providing off-street parking and maintaining it from the neighboring property, the special exception does not appear to alter the essential character of the district and location in which the property is seeking the special exception.

Second: Ozuna

Teel made a **motion** for BOA-22-10300029 to withdraw his original motion.

Second: Ozuna

Zuniga made a **motion** for BOA-22-10300029 to be continued to April 18, 2022.

Second: Manna

In Favor: Kaplan, Albert, Menchaca, Zuniga, Manna, Bragman, Teel, Ozuna, Oroian

Opposed: None

Motion Granted for a continuance for BOA-22-10300029 to April 18, 2022.

Item #7

BOA-22-10300027: A request by Patrick Christensen for 1) a 25' variance from the minimum 30' setback requirement to allow for a structure to be 5' from the rear property line and 2) a 10' variance from the minimum 15' landscape bufferyard requirements to allow a 5' landscape

buffer, generally located in the 6200 block of Franklin Street. Staff recommends Approval. (Council District 10) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

Staff stated 23 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and no response from Terrill Heights Homeowners Association.

Patrick Christensen, applicant, requested a variance to for a two-story office space building.

Public Comment:

Karen Webber, 119 W. Meadowlane Dr., spoke in opposition.

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

The Board of Adjustment meeting went into recess at 2:41 P.M. and reconvened at 2:48 P.M.

Voicemail:

Kristy Rodriguez, 131 W. Meadowlane Dr., spoke in opposition.

Chair Oroian asked for a motion for item BOA-22-10300027, as presented.

Ozuna made a **motion** for BOA-22-10300027 for Approval.

Regarding Case No. BOA-22-10300027, I move that the Board of Adjustment grant a request for a 25' variance from the minimum 30' setback requirement to allow for a structure to be 5' from the rear property line and a 10' variance from the minimum 15' landscape buffer yard requirements generally located at the 6200 block of Franklin Street, 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 applicant is requesting a 25' variance from the minimum 30' setback requirement to allow for a structure to be 5' from the rear property line.

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

A literal enforcement of the ordinance would result in the applicant having to postpone any development.

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. A 25' variance from the minimum 30' setback requirement to allow for a structure to be 5' from the rear property line. will observe the spirit of the ordinance

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

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

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

Staff finds the request for a 25' variance from the minimum 30' setback requirement to allow for a structure to be 5' from the rear property line is enough space away from the adjacent property line and is likely to not negatively affect the adjacent 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.*

Staff finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property such as the small amount of available space.

Second: Bragman

Ozuna made a **motion** for BOA-22-10300027 to withdraw his original motion.

Zuniga made a **motion** for BOA-22-10300027 to be continued to April 18, 2022.

Second: Ozuna

In Favor: Kaplan, Albert, Menchaca, Zuniga, Manna, Bragman, Teel, Ozuna, Oroian

Opposed: None

Motion Granted for a continuance for BOA-22-10300027 to April 18, 2022.

Item #8

BOA-22-10300019: A request by Linda Resendiz for 1) 14' 7" variance from the minimum 20' rear setback requirement to allow an attached room addition with 1' overhang to be 5' 5" from the rear setback and 2) a request for a 7" variance from the minimum 5' side setback requirement to allow an attached room addition with 16" overhang to be 4' 5" from the side property line, located at 1337 West Gerald. Staff recommends Denial. (Council District 5) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department).

Staff stated 34 notices were mailed to property owners within 200 feet, 18 returned in favor, 0 returned in opposition, and no response from the Tierra Linda Neighborhood Association.

Linda Resendiz, applicant, stated she will amend her application to include gutters.

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-22-10300019 as presented.

Teel made a **motion** for BOA-22-10300019 for approval.

Regarding Case No. BOA-22-10300019, I move that the Board of Adjustment grant a request for 1) 14' 7" variance from the minimum 20' rear setback requirement to allow an attached room addition with 1' overhang to be 5' 5" from the rear setback, situated at 1337 West Gerald, applicant being Linda Resendiz, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

The public interest is defined as the general health, safety, and welfare of the public. The request is to allow an attached room addition to be 5' 5" away from the rear property line and 4' 5" away from the side property line which is not contrary to the public interest as the applicant has adequate space from any surrounding adjacent structures.

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

The Board finds that any special conditions that, if enforced, would result in an unnecessary hardship. By imposing a literal enforcement, the owner would have to demolish a significant portion of the structure and it would not be able to be used as a garage and storage.

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 side and rear setbacks is to ensure there is adequate space between neighboring properties in case of an emergency. There is sufficient space between the neighboring properties and there will be plenty of space between structures as to not pose any fire or life safety issue 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 for a 14' 7" variance to the rear of property to allow a structure to be 5' 5" from the rear of property does not pose a risk of substantially injuring the use of adjacent properties and does not seem likely to alter the essential character of the district.

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

The Board finds that the plight of the property owner is sought due to the unique circumstances existing on the property in that the lots sizes are similar in the area and other residential structures are built on similar lot sizes. The owner purchased the property with the current lot size it has and it was not altered or subdivided by the owner. There is not much room to the rear of property as the primary structure sits back into the property away from the front property line.

Second: Bragman

In Favor: Kaplan, Albert, Menchaca, Zuniga, Manna, Bragman, Teel, Ozuna, Oroian

Opposed: None

Motion Granted

Item #9 **BOA-22-10300025:** A request by Bertha Dominguez for a 2,220-lot size variance from the 6,000 minimum lot size requirement to allow a lot size of 3,800 square feet, located at 715 Laurens Lane. Staff recommends Approval. (Council District 2) (Richard Bautista-Vazquez, Planner (210) 207-0215, richard.bautista-vazquez@sanantonio.gov, Development Services Department)

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

Bertha Dominguez, applicant, requested a variance to move a house from Dilley, TX to her vacant property.

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-22-10300025 as presented.

Bragman made a **motion** for BOA-22-10300025 for approval.

Regarding Case No. BOA-22-10300025, I move that the Board of Adjustment grant a request for a 2,200-lot size variance from the 6,000 minimum lot size requirements, situated at 715 Laurens, applicant being Betha Dominguez, 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:

7. *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 2,200-lot size variance from the 6,000 minimum lot size requirements.

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

A literal enforcement of the ordinance would result in the applicant having to postpone

any development.

9. *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. A 2,200-lot size variance from the 6,000 minimum lot size requirements will observe the spirit of the ordinance

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

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

11. *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.*

Staff finds the request for a 2,200-lot size variance from the 6,000 minimum lot size requirement is likely to not negatively affect the adjacent neighboring property.

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

Staff finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property such as the small amount of available space.

Second: Kaplan

In Favor: Kaplan, Albert, Menchaca, Zuniga, Manna, Bragman, Teel, Ozuna, Oroian

Opposed: None

Motion Granted

Item #10

BOA-22-10300024: A request by Justin Rominski for a 2' special exception from the maximum 6' fence height requirement to allow an 8' solid screened privacy fence along the side and rear property lines, located at 15522 Triple Creek. Staff recommends Approval. (Council District 10) (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, 0 returned in favor, and 0 returned in opposition, and no registered neighborhood association.

Justin Rominski, applicant, requested a special exception for an 8-foot fence.

Public Comment:

Voicemail:

Ann McAllister, 3507 Trailway Park St., spoke in opposition.

Michael Slagg, did not provide address, spoke in partial 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-22-10300024 as presented.

Teel made a **motion** for BOA-22-10300024 for approval.

Regarding Case No. BOA-22-10300024, I move that the Board of Adjustment grant a 2' special exception from the maximum 6' fence height requirement to allow an 8' solid screened privacy fence along the side and property line, situated at 15522 Triple Creek, applicant being Justin Rominski, 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:

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

The UDC states the Board of Adjustment can grant a special exception for a fence

height modification. The additional fence 2' in height is intended to provide additional privacy to the property.

B. The public welfare and convenience will be substantially served.

In this case, these criteria are represented by fence heights to protect residential property owners while still promoting a sense of community. An 8' wooden privacy fence located along the side and rear property lines does not pose any adverse effects to the public welfare.

C. The neighboring property will not be substantially injured by such proposed use.

The Board finds that the fence will create additional security for the subject property and is unlikely to injure adjacent properties.

D. 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 2' in height will not alter the essential character of the district. The proposed fence will only be located along the side and rear property line.

E. 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: Zuniga

In Favor: Kaplan, Albert, Menchaca, Zuniga, Manna, Bragman, Teel, Ozuna, Oroian

Opposed: None

Motion Granted

Item #11 Approval of the minutes from the Zoning Board of Adjustment meeting on February 21, 2022.

Motion: Kaplan made a **motion** for Approval of the February 21, 2022 minutes.

Second: Menchaca

In Favor: Kaplan, Albert, Menchaca, Manna, Bragman, Teel, Ozuna, Oroian

Abstained: Zuniga

Opposed: None

Minutes Approved.

Announcement:

Director's Report: Update on 2022 UDC Code Amendments.

Adjournment

There being no further business, the meeting was adjourned at 3:53 P.M.

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary