

City of San Antonio



Draft

Board of Adjustment Minutes

Development and Business Services

Center

1901 South Alamo

October 4, 2021

1:00PM

1901 S. Alamo

Board of Adjustment Members

A majority of appointive Members shall constitute a quorum.

Donald Oroian, District 8, Chair

Andrew Ozuna, Mayor, Vice Chair

Seth Teel, District 6, Pro-Tem

Vacant, District 1 | 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

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

Lillian Miess | Jesse Vasquez | Jesse Zuniga

1:17 P.M. - Call to Order

- Roll Call

- Present: Albert, Menchaca, Cruz, Manna, Bragman, Delmer, Kaplan, Conroy, Teel, Ozuna, Oroian

- Absent: Britton

2 Translators from SeproTec were present to assist with translating.

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

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

Item #1 (Continued from 9/13/2021) **BOA-21-10300100:** A request by Daniel Moreno for 1) a 25 square-foot variance from the minimum 4,000 square foot requirement to allow a lot size of 3,975 square feet, 2) a 2' variance from the minimum 5' side setback requirement to allow a residential structure to be 3' from the side property line, and 3) a 4' 7" variance from the minimum 20' rear setback to allow a residential structure to be 15' 5" away from the rear property line, located at 2723 Chihuahua Street. Staff recommends Approval. (Council District 5) (Kayla Leal, Senior Planner (210) 207-0197, Kayla.Leal@sanantonio.gov, Development Services Department)

Staff stated 37 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and no response from the El Charro Neighborhood Association.

Perez, 2723 Chihuahua Street – Requesting variance to build a new home on existing foundation.

No Public Comment

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

Chair Oroian asked for a motion for item BOA-20-10300100, as presented.

Mr. Teel made a **motion** for BOA-20-10300100 for approval

“Regarding Case No. BOA-21-10300100, I move that the Board of Adjustment grant a request for 1) a 25 square-foot variance from the minimum 4,000 square foot requirement to allow a lot size of 3,975 square feet, 2) a 2' variance from the minimum 5' side setback requirement to allow a residential structure to be 3' from the side property line, and 3) a 4' 7" variance from the minimum 20' rear setback to allow a residential structure to be 15' 5" away from the rear property line, situated at 2723 Chihuahua Street, 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 defined as the general health, safety, and welfare of the public. The requested variances are for the lot size, side setback, and rear setback. The variance requests do not appear to be contrary to the public interest as the property is located on a corner lot.
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. A demolition permit was issued in March of 2021 and the new development is proposed to be built on the existing foundation.

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 recommended variance to allow a 3' side setback and a 15' 5" rear setback will maintain the spirit of the ordinance to create more space allow for adequate space.
4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*
The variance will not authorize the operation of a use other than those uses specifically authorized by the district.
5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*
The request to reduce the side and rear setbacks do not seem not likely to alter the essential character of the district. The distance from the side property line and rear property line is adequate space and does not appear to pose any risk for fire hazards.
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 is due to unique circumstances existing on the property such as the small amount of available space and its location on a corner lot."

Second: Bragman

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

Opposed: None

Motion Granted

Item #2

BOA-21-10300119: A request by Texas Republic Signs, LLC for 1) a 104 square foot sign variance from the 650 square foot sign maximum to allow a multi-tenant sign to be 754 square feet and 2) a 24'7" sign variance from the maximum 60' sign height maximum to allow a multi-tenant sign to be 84'7", located at 1815 North Foster Road. Staff recommends Denial. (Council District) (Kayla Lea, Senior Planner (210) 207-0197, Kayla.Leal@sanantonio.gov, Development Services Department)

Applicant unable to attend the Board of Adjustment meeting and requested a continuance to the October 18, 2021 meeting.

Chair Oroian asked for a motion for item BOA-20-10300119, to be continued to the October 18, 2021 Board of Adjustment meeting.

Ms. Bragman made a **motion** for BOA-20-10300119 for approval

Second: Curz

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

Opposed: None

BOA-21-10300119 continued to the October 18, 2021 Board of Adjustment meeting.

Item #3 **BOA-21-10300122:** A request by Tomas Eggers for a 5' sign variance from the 40' maximum sign height to allow a single-tenant sign to be 45' tall, located at 14000 Nacogdoches Road. Staff recommends Approval. (Council District 10) (Kayla Leal, Senior Planner (210) 207-0197, kayla.leal@sanantonio.gov, Development Services Department)

Staff stated 7 notices were mailed to property owners within 200 feet, 0 returned in favor, and 0 returned in opposition, and no registered Neighborhood Association.

Kathy Song, 14000 Nacogdoches Road – Requesting to replace single-tenant sign. The same pole will be used for the sign.

No Public Comment

Chair Oroian asked for a motion for item BOA-21-10300122, as presented

Mr. Ozuna made a **motion** for BOA-21-10300122, for approval

“Regarding Case No. BOA-21-10300122, I move that the Board of Adjustment grant request for a 5' sign variance from the 40' maximum sign height allowance to allow a single-tenant sign to be 45' tall, situated at 14000 Nacogdoches Road, applicant being Tomas Eggers, 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 necessary because strict enforcement of this article prohibits any reasonable opportunity to provide adequate signs on the site, considering the unique features of a site such as its dimensions, landscaping, or topography, or*
 2. *A denial of the variance would probably cause a cessation of legitimate, longstanding active commercial use of the property.*
- The proposed sign within the same area is warranted and will conform to existing conditions of the commercial area.**

3. *After seeking one or more of the findings set forth in subparagraphs (1) and (2), the Board finds that:*
- A. *Granting the variance does not provide the applicant with a special privilege not enjoyed by others similarly situated or potentially similarly situated.*
The request is not out of character with the surrounding commercial properties and the sign will not block any existing businesses. The requested variance does not provide the applicant with a special privilege.
- B. *Granting the variance will not have a substantially adverse impact on neighboring properties.*
The proposed variance will not have an adverse impact on neighboring properties as surrounding properties have similar signage. Further, the proposed sign will utilize an existing pylon on the subject property which is already 5' over the maximum height limitation.
- C. *Granting the variance will not substantially conflict with the stated purposes of this article.*
The requested sign height variance will not conflict with the stated purpose of the chapter."

Second: Manna

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

Opposed: None

Motion Granted

Item #4

BOA-21-10300095: A request by Joseph Palumbo for 1) a 1'11" special exception from the 3' maximum height to allow a 4'11" wooden privacy fence along the front property line and 2) a 6' variance from the clear vision standards of 25' to allow a solid screened fence within the Clear Vision Field, located at 132 Rehmann Street. Staff recommends Denial with an Alternate Recommendation. (Council District 1) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Staff stated 30 notices were mailed to property owners within 200 feet, 2 returned in favor, 0 returned in opposition, Collins Gardens neighborhood Association is in opposition.

Joseph Palumbo, 132 Rehmann Street – Requesting to keep existing fence. Fence provides safety for dog. Street has a lot of foot traffic; he worries about dog biting someone or being fed something that may harm him.

No Public Comment

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

Chair Oroian asked for a motion for item BOA-20-103000095, as presented

Mr. Manna made a **motion** for BOA-20-103000095 for approval

“Regarding Case No. BOA-21-10300095, I move that the Board of Adjustment grant a special exception to allow an 4’ 11” wooden privacy fence along the front property line, situated at 132 Rehmann Street, applicant being Joseph Palumbo, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

1. *The special exception will be in harmony with the spirit and purpose of the chapter.*
The UDC states the Board of Adjustment can grant a special exception for a fence height modification. The additional fence 1’ 11” in front is intended to provide additional safety for the property.
2. *The public welfare and convenience will be substantially served.*
In this case, these criteria are represented by fence heights to protect residential property owners while still promoting a sense of community. A 4’ 11” solid screened fence in front yard does not pose any adverse effects to the public welfare.
3. *The neighboring property will not be substantially injured by such proposed use.*
The Board finds that the fence will create enhanced security for the subject property and is unlikely to injure adjacent properties.
4. *The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought.*
The additional height for the section of front yard fence will not alter the essential character of the district and will provide security of the district. DSD Traffic Staff did review the fence and did not find any issues.
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: Teel

In Favor: Ozuna, Oroian

Opposed: Albert, Menchaca, Cruz, Manna, Bragman, Delmer, Kaplan, Conroy, Teel

Motion Fails

Chair Oroian asked for a motion for the **Variance** for item BOA-20-103000095, as presented

Mr. Manna made a **motion** for the Variance for BOA-20-103000095 for approval

“Regarding Case No. BOA-21-10300095, I move that the Board of Adjustment grant a request for a 6’ variance from the clear vision standards of 25’ to allow a **partially** solid and **predominantly open** screen fence to be within the clear vision field, situated at 132 Rehmann Street, applicant being Joseph Palumbo, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

1. *The variance is not contrary to the public interest.*
The public interest is defined as the general health, safety, and welfare of the public. The request to allow a solid screen fence to be within the clear vision field on a corner lot is not contrary to the public interest, assuming it does allow for the predominantly open fencing.
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 clear vision field would need to be cleared from any type of fencing and adjusted to 3 feet in height of a solid screened fence and height above that for predominantly open.
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. DSD Traffic Staff does not find any adverse effects with the existing solid fence constructed along the front and side property line, so the spirit of the ordinance will be observed and substantial justice will not be done.
4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*
The variance will not authorize the operation of a use other than those uses specifically authorized by the district.
5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*
The request to reduce a portion of the clear vision field does not pose a risk of substantially injuring the use of adjacent properties and does not seem likely to alter the essential character of the district. This property is located within an older neighborhood, and there is one other non-conforming fence on the front property line in area.
6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.*
The Board finds that the plight of the property owner is sought due to the unique circumstances existing on the property due to the clear vision field is not affected at this location.”

Second: Teel

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

Opposed: None

Motion Granted

Chair Oroian called for the Board of Adjustment to take a recess at 2:23 pm. The Board of Adjustment reconvened at 2:23 pm. Mr. Delmer left the Board of Adjustment meeting at 2:46 pm.

Item #5 BOA-21-10300080: A request by Herbert Lopez Garcia for a 7'4" variance from the 10' minimum front setback requirement to allow a carport to be 2'8" from the front property line, located at 220 Lebanon Street. Staff recommends Approval. (Council District 3) (Kayla Leal, Senior Planner (210) 207-0197, Kayla.Leal@sanantonio.gov, Development Services Department)

Staff stated 31 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition. No registered Neighborhood Association.

Herbert Lopez, 220 LeBanon St – Requesting variance to keep existing carport. Carport is needed to keep vehicles safe from damage.

No Public Comment

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

Chair Oroian asked for a motion for item BOA-20-10300080, as presented

Ms. Cruz made a **motion** for BOA-20-10300080 for approval

“Regarding Case No. BOA-21-10300080, I move that the Board of Adjustment grant a request for a 7' 4" variance from the 10' minimum front setback requirement to allow a carport to be 2' 8" from the front property line, situated at 220 Lebanon Street, applicant being Herbert Lopez 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 defined as the general health, safety, and welfare of the public. The requested variance from the front setback is not contrary to the public interest.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
The Board finds that any special conditions that, if enforced, would result in the carport being relocated to be setback 10' from the front property line. This would reduce the depth of the carport to be about 16' deep, which would not allow for adequate space for the length of a vehicle.
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*
The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. The carport is setback from the front property line and will not affect the character of the surrounding neighborhood so the spirit of the ordinance appears to 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.*
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 does not find the requested variance to substantially injure the appropriate use of adjacent conforming properties or alter the essential character of the district. Other carports were observed in the area with similar design.
6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.*
The Board finds that the plight of the property owner is sought due to the unique circumstances existing on the property and is not merely financial.”

Second: Teel

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

Opposed: None

Motion Granted

Item #6

BOA-21-10300113: A request by Michael Phillips for a variance from the NCD-3 Ingram Hills Neighborhood Conservation District design standards to allow a 5' predominantly open fence in the front yard, located at 4126, 4130 and 4134 Majestic Drive and 4311 Horseshoe Bend. Staff recommends Denial. (Council District 7) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Staff stated 19 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition. The Ingrams Hills Neighborhood Conservation District is in favor.

Michael Phillips, 4126, 4130, 4134 Majestic & 4311 Horseshoe Bend – Requesting a variance to allow for a fence to be installed. The fence would provide safety to 3 families.

Public Comment:

Jennifer Torres, 4311 E. Horseshoe Bend – 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-20-10300113 as presented.

Mr. Manna made a **motion** for BOA-20-10300113 for Approval.

“Regarding Case No. BOA-21-10300113, I move that the Board of Adjustment grant a request for a variance from the NCD-3 Ingram Hills Neighborhood Conservation District design standards to allow a 5' predominantly open fence in the front yard, situated at 4126, 4134, 4311 Majestic, and 4311 Horseshoe Bend, applicant being Michael Phillips, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

1. *The variance is not contrary to the public interest.*
The public interest is defined as the general health, safety, and welfare of the public. The request to allow a predominately open 5 foot fence in the front yard is not contrary to the public interest.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
The Board finds that any special conditions that, if enforced, would result in an unnecessary hardship. By imposing a literal enforcement, the fence would not be constructed or would be constructed to 3 feet in height which would reduce the safety for property owners.
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 height is to provide spacing between neighboring structures which is observed.
4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*
The variance will not authorize the operation of a use other than those uses specifically authorized by the district.
5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*
The request to increase the fence height does not pose a risk of substantially injuring the use of adjacent properties and does not seem likely to alter the essential character of the district. This property is located within an older neighborhood, and there are other non-conforming fences in the surrounding area.
6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.*
The Board finds that the plight of the property owner is sought due to the unique circumstances existing on the property due to the neighboring Multi-Family Residence and the increase in traffic that comes with it.”

Second: Teel

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

Opposed: None

Motion Granted

Item #7 **BOA-21-10300114:** A request by Keith Wideman for 1) a 3' 11" variance from the minimum 5' side setback requirement to allow an addition to be 1' 1" away from the western side property line, and 2) a 2' 10" variance from the minimum 5' side setback requirement to allow a detached accessory structure to be 2' 2" away from eastern side property line, located at 1713 West Mulberry Drive. Staff Recommends Denial with an Alternate Recommendation. (Council District 7) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Staff stated 42 notices were mailed to property owners within 200 feet, 0 returned in favor, 1 returned in opposition. No response from the Prospect Hill Neighborhood Association.

Keith Wideman, 1713 West Mulberry Ave – Requesting variance to have a detached accessory structure. The addition will follow the line of the existing home. Addition will be fire rated and have gutters.

Public Comment:

Roger Valdez, 1705 West Mulberry Ave – In favor (voicemail)

Mr. Ozuna stepped away from the Boardroom at 3:28 pm and returned at 3:29 pm.

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-20-10300114, as presented.

Mr. Manna made a **motion** for BOA-20-10300114 for approval.

“Regarding Case No. BOA-21-10300114, I move that the Board of Adjustment grant a request for 1) a 3' 11" variance from the 5' side setback requirement to allow an addition to be 1' 1" away from the western side property line and 2) a 2' 10" variance from the minimum 5' side setback requirement to allow a detached accessory structure to be 2' 2" away from eastern side property line, situated at 1713 West Mulberry Avenue, applicant being Keith Wideman, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

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

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
The Board finds that any special conditions that, if enforced, would result in an unnecessary hardship. By imposing a literal enforcement, the room addition would not be in line with the existing house thus reducing the amount of livable space for the room addition and the owner would need to move over detached accessory structure over a minimum of 2' 2" away to be 5' from side property line.
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*
The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. The intent of the setbacks is to provide spacing between neighboring structures which is observed.
4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*
The variance will not authorize the operation of a use other than those uses specifically authorized by the district.
5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*
The request to reduce a portion of the side setback does not pose a risk of substantially injuring the use of adjacent properties and does not seem likely to alter the essential character of the district. This property is located within an older neighborhood, and there are other non-conforming lot lines where existing structures are built and almost all the homes in the area have a detached accessory structure to the rear of property lines.
6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.*
The Board finds that the plight of the property owner is sought due to the unique circumstances existing on the property due to the existing structures in neighborhood are almost built on the lot lines and with detached accessory structures in the rear."

Second: Teel

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

Opposed: None

Motion Granted

Item #8

BOA-21-10300117: A request by Jesus M. Trevino for a 2' special exception from the 6' maximum fence height to allow an 8' solid screen fence along the side and rear property lines, located at 4005 Skyridge Avenue. Staff recommends Approval. (Council District 3) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Staff stated 27 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition.

Jesus Trevino, 4005 Skyridge Avenue – Requesting to keep existing privacy fence for privacy while family uses the swimming pool.

No Public Comment

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

Chair Oroian asked for a motion for item BOA-20-10300117, as presented

Mr. Ozuna made a **motion** for BOA-20-10300117 for approval

“Regarding Case No. BOA-21-10300117, I move that the Board of Adjustment grant a special exception from the maximum fence height to allow a solid screened fence to be 8' tall along the side and rear property lines, situated at 4005 Skyridge Avenue, applicant being Jesus Trevino, 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 2 feet of height is intended to provide additional safety for the property.
2. *The public welfare and convenience will be substantially served.*
In this case, these criteria are represented by fence heights to protect residential property owners while still promoting a sense of community. An 8' solid screened fence along the rear and side yard does not pose any adverse effects to the public welfare.
3. *The neighboring property will not be substantially injured by such proposed use.*
The Board finds that the fence will create enhanced security for the subject property and is unlikely to injure adjacent properties.
4. *The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought.*
The additional height for the section of the side and rear yard fence will not alter the essential character of the district and will provide security of the district.
5. *The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district.*
The current zoning permits the current use of a single-family home. The requested special exception will not weaken the general purpose of the district.”

Second: Cruz

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

Opposed: None

Motion Granted

Item #9 **BOA-21-10300118:** A request by Juan R Cervantes for 1) a 15' variance from the minimum 20' rear setback requirement to allow a structure to be 5' from the rear property line and 2) a 1' special exception from the maximum fence height of 5' in the front yard to allow a portion of a solid screened front yard fence to be 6' tall, located at 427 Guanajuato Street. Staff recommends Denial with an Alternate Recommendation. (Council District 5) (Kayla Leal, Senior Planner (210) 207- 0197, kayla.leal@sanantonio.gov, Development Services Department)

Staff stated 34 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition. No response from the Westwood Square Neighborhood Association.

Juan Cervantes, 427 Guanajuato Street – Requesting to keep structure and 6' fence in the front of home.

Public Comment

Martha Gamez, 414 Guanajuato Street – In favor is structure is already up, in opposition if not

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-20-10300118, as presented

Mr. Teel made a **motion** for BOA-20-10300118 for approval

“Regarding Case No. BOA-21-10300118, I move that the Board of Adjustment grant a request for a request for a 15' variance from the minimum 20' rear setback requirement to allow a structure to be 5' from the rear property line, situated at 427 Guanajuato Street, applicant being Juan R Cervantes, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

1. *The variance is not contrary to the public interest.*
The public interest is defined as the general health, safety, and welfare of the public. The request to allow the rear setback variance is not contrary to the public interest since the structure is existing.
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, dwelling will need to be relocated further from the rear property line.
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 existing structure meets all other setbacks so the spirit of the ordinance is observed.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*
The variance will not authorize the operation of a use other than those uses specifically authorized by the district.
5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*
The request to reduce the rear setback does not pose a risk of substantially injuring the use of adjacent properties and does not seem likely to alter the essential character of the district.
6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.*
The Board finds that the plight of the property owner is sought due to the unique circumstances existing on the property and is not merely financial.”

Second: Manna

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

Opposed: None

Motion Granted

Chair Oroian asked for a motion for the Special Exception for item BOA-20-10300118, as presented

Mr. Teel made a **motion** for BOA-20-10300118 for approval

“Regarding Case No. BOA-21-10300118, I move that the Board of Adjustment grant a 1’ special exception from the 5’ maximum fence height in the front yard to allow a portion of a solid screened front yard fence, situated at 427 Guanajuato Street, applicant being Juan R Cervantes, 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 in the front yard is intended appears to be in harmony with the spirit of the chapter.
2. *The public welfare and convenience will be substantially served.*
The small portion of front yard fence will substantially serve the public welfare and convenience as it is located along the side yard of the abutting property.
3. *The neighboring property will not be substantially injured by such proposed use.*
The Board finds that the fence will create enhanced security for the subject property and is unlikely to injure adjacent properties.

4. *The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought.*
The additional height for the section of front yard fence will not alter the essential character of the district and will provide security of the district.
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: Oroian

Chair Oroian offered a friendly amendment to limit the special exception to no closer than 30’ from the street.

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

Opposed: None

Motion Granted

Item #10

BOA-21-10300120: A request by Jennifer Gonzales for a 5’ variance from the minimum 30’ front setback requirement to allow a structure to be 25’ from the front property line, located at 143 Remount Drive. Staff recommends Approval. (Council District 2) (Kayla Leal, Senior Planner (210) 207-0197, kayla.leal@sanantonio.gov, Development Services Department)

Staff stated 11 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition. No registered Neighborhood Association.

Andrew Barbosa, KLove Engineering, 22610 US 281 – Requesting setback variance to maximize the use of 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-20-10300120, as presented

Mrs. Cruz made a **motion** for BOA-20-10300120 for approval

“Regarding Case No. BOA-21-10300120, I move that the Board of Adjustment grant a request for a 5’ variance from the minimum 30’ front setback requirement to allow a structure to be 25’ from the front property line, situated at 143 Remount Drive, applicant being Jennifer Gonzales, 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 to the front setback to allow a warehouse to be constructed 25’ from the front property line. The setback will still allow for parking and does not appear 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 the applicant in constructing the warehouse 30’ from the front property line, which would reduce the space behind the warehouse.

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 proposed development will meet all other development standards and will allow for space in the rear for the required landscape buffer, which observes 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 variance will allow the structure to be 5’ closer to the front property line. The variance does not appear 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.*

Staff finds the plight of the owner of the property for which the variance for the front setback is sought is due to unique circumstances existing on the property and is not merely financial.”

Second: Menchaca

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

Opposed: None

Motion Granted

- Item #11** **BOA-21-10300121:** A request by Robert A. Stovall for a 2' special exception from the 6' maximum fence height to allow an 8' solid screen fence along the side and rear property lines, located at 510 Prinz Drive. Staff recommends Approval. (Council District 9) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Staff stated 29 notices were mailed to property owners within 200 feet, 1 returned in favor, 1 returned in opposition. No response from the Greater Harmony Hills Neighborhood Association.

Robert Stovall, 510 Prinz Drive – Fence provides safety and privacy while using the pool.

Public Comment

Stuart 10315 Mt. Michelle – In opposition

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

Chair Oroian asked for a motion for item BOA-20-10300121, as presented

Ms. Bragman made a **motion** for BOA-20-10300121 for approval

“Regarding Case No. BOA-21-10300121, I move that the Board of Adjustment grant a special exception from the maximum fence height to allow a solid screened fence to be 8' tall along the side and rear property lines, situated at 510 Prinz Drive, applicant being Robert Stovall, 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 2 feet of height is intended to provide additional safety for the property.
2. *The public welfare and convenience will be substantially served.*
In this case, these criteria are represented by fence heights to protect residential property owners while still promoting a sense of community. An 8 foot solid screened fence along the rear and side yard does not pose any adverse effects to the public welfare.
3. *The neighboring property will not be substantially injured by such proposed use.*
The Board finds that the fence will create enhanced security for the subject property and is unlikely to injure adjacent properties.
4. *The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought.*
The additional height for the section of the side and rear yard fence will not alter the essential character of the district and will provide security of the district.

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

The current zoning permits the current use of a single-family home. The requested special exception will not weaken the general purpose of the district.”

Second: Oroian

Mr. Ozuna made a formal amendment to read 8’ on the side yard and 8’ on the rear, and 6’ only were abutting 10315 Mt. Michelle. Amendment was accepted by Ms. Bragman and Chair Oroian.

In Favor: Albert, Conroy, Teel, Ozuna, Oroian

Opposed: Kaplan, Menchaca, Manna, Bragman

Abstained: Cruz

Motion Fails

Chair Oroian asked for rollcall for the amendment of 8’ fence along the sides and 6’ along the rear property line.

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

Opposed: None

Motion Granted

Item #13 Consideration and approval of October 4, 2021 Board of Adjustment meeting minutes.

Motion: Chair Oroian asked for a motion for approval of October 4, 2021 minutes with corrections.

Chair Oroian made a **motion** for approval of the October 4, 2021 minutes with corrections.

Second: Manna

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

Opposed: None

Abstained: Kaplan, Conroy

Minutes approved with corrections

Adjournment

There being no further business, the meeting was adjourned at 5:00 p.m.

DRAFT

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary

DRAFT