



DRAFT

Board of Adjustment Minutes

Development and Business Services

Center

1901 South Alamo

November 1, 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

1:05 P.M. - Call to Order

- Roll Call

- Present: Kaplan, Albert, Menchaca, Vasquez, Cruz, Manna, Bragman, Miess, 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 #4 **BOA-21-10300143:** A request by Rosiz Rusk for a special exception from the maximum height limitation of 6' to allow for an 8 foot solid screened privacy fence along the side property lines, located at 18307 Brookwood Forest Street. Staff recommends Approval. (Council District 9) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Staff stated 20 notices were mailed to property owners within 200 feet, 2 returned in favor, 0 returned in opposition, and no registered neighborhood association.

Rosiz Rusk, applicant, requested a special exception to allow a solid screened fence to be 8-feet tall for protection and privacy. She answered the board members questions.

Public Comment

Written:

Chien Liu, 18510 Eagle Ford, favor.

Chair Oroian asked for a motion for item BOA-21-10300143 as presented.

Mrs. Bragman made a **motion** for BOA-21-10300143 for approval

Regarding Case No. BOA-21-10300143, I move that the Board of Adjustment grant a special exception from the maximum fence height to allow a solid screened side and rear yard fence to be 8' tall, situated at 18307 Brookwood Forest, applicant being Rosiz Rusk, 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' of height is intended to provide additional privacy and safety for the property. DSD Traffic has reviewed the request and do not have any opposition to the request.

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. A 8' solid screened fence along the side and rear property line 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 enhanced 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 height for the section of side and rear yard fence will not alter the essential character of the district and will provide security of the district. DSD Traffic Staff did review the fence and it does not violate any Clear Vision Standards.

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: Ozuna

In favor: Kaplan, Albert, Menchaca, Vasquez, Cruz, Manna, Miess, Teel, Oroian

Opposed: None

Motion Granted

Item #1 **BOA-21-10300037:** A request by Emilie Weissler for a waiver to the minimum parking requirements to allow for 104 parking spaces on the property, located at 6919 North 1604 West. Staff recommends Approval. (Council District 8) (Kayla Leal, Principal Planner (210) 207-00197, Kayla.Leal@sanantonio.gov, Development Services Department)

Staff stated 6 notices were mailed to property owners within 200 feet, 1 returned in favor, 0 returned in opposition, and no registered neighborhood association.

Rob Killen, KGF group, representative for Mountain Classic Real Estate, presented a presentation to the board members requesting to keep 104 parking spaces on the property.

Christina Dela Cruz, Development Services Engineer, answered the board member questions.

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-21-10300037, as presented.

Mr. Ozuna made a **motion** for BOA-21-10300037 for approval.

Regarding Case No. BOA-21-10300037, I move that the Board of Adjustment grant a request for a waiver to the minimum parking requirements to allow for 104 parking spaces on the property, situated at 6919 North 1604 West, applicant being Emilie Weissler, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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

The public interest is defined as the general health, safety, and welfare of the public. The applicant is requesting a variance that 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.*

A literal enforcement of the ordinance would result in the applicant reducing the amount of available units, which would reduce the amount of housing provided. The property is located over the Edward Recharge Zone, so the impervious cover is limited to the amount currently placed on the property.

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 rear to reduce the parking by six (6) spaces 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 Board does not find that the request to maintain the current amount of parking spaces, which is six (6) less than what is required by the standards, to substantially injure the adjacent conforming properties or 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 property is located over the Edward Recharge Zone which is restricting the amount of impervious cover for parking. The variance is sought due to this unique circumstance, which was not created by the owner and is not merely financial.

Second: Bragman

In Favor: Kaplan, Albert, Menchaca, Vasquez, Cruz, Manna, Miess, Teel, Oroian

Opposed: None

Motion Granted

Item #2

BOA-21-10300145: A request by Jennifer Gonzales for a variance to reduce the landscape buffer to 1", located at 7979 and 7989 Bandera Road. Staff recommends Denial with an Alternate Recommendation. (Council District 7) (Kayla Leal, Principal Planner (210) 207-00197, Kayla.Leal@sanantonio.gov, Development Services Department)

Staff stated 13 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and no registered neighborhood association.

Edmund McNugh, representative, requested a variance to reduce the landscape buffer along the front property line to 5-feet.

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-21-10300145.

Mr. Manna made a **motion** for BOA-21-10300145.

Regarding Case No. BOA-21-10300145, I move that the Board of Adjustment grant a request for a variance from the landscape buffer requirements to reduce the landscape buffer along the front property line to 5', situated at 7979 and 7989 Bandera Road, 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 applicant is requesting to reduce the landscape buffer along the front property line to 5' in order to accommodate for more parking for the new development, which 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 an unnecessary hardship. By imposing a literal enforcement, parking spaces would be eliminated for the proposed business.

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 spirit of the ordinance is still observed with the landscape plan and substantial justice will be done.

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

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

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

The request to reduce the landscape buffer does not appear to substantially injure adjacent properties nor will it alter the essential character of the district.

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

The Board finds that the plight of the property owner is sought due to the unique circumstances existing on the property and is not merely financial.

Second: Ozuna

In Favor: Kaplan, Albert, Menchaca, Vasquez, Cruz, Bragman, Miess, Teel, Oroian

Opposed: None

Motion Granted

Item #3

BOA-21-10300104: A request by Santos Rodriguez for a special exception from the maximum height limitation of 5' to allow for a 6' predominantly open wrought iron fence in the front yard, located at 339 Harriman Place. Staff recommends Approval. (Council District 5) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Staff stated 24 notices were mailed to property owners within 200 feet, 1 returned in favor, and 0 returned in opposition, and no response from the Collin Gardens Neighborhood Association.

Santos Rodriguez, applicant, requested a special exception to allow a 6-foot fence for protection from highway 90 and security purposes for his elderly parents.

Public Comment:

Yancy Salazar, 333 Harriman, favor.

Written:

Alicia Klein, 130 Roslyn Ave, favor.

Chair Oroian asked for a motion for item BOA-21-10300104 as presented

Mr. Teel made a **motion** for BOA-21-10300104

Regarding Case No. BOA-21-10300104, I move that the Board of Adjustment grant a special exception from the maximum fence height to allow a predominately open front yard fence to be 6' tall, situated at 339 Harriman Place, applicant being Santos Rodriguez, because the testimony presented to us, and the facts that we have determined, show that the physical character of this property is such that a literal enforcement of the provisions of the Unified Development Code, as amended, would result in an unnecessary hardship.

Specifically, we find that:

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 1' of height is intended to provide additional safety for the property. DSD Traffic has reviewed the request and do not have any opposition to the request.

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

In this case, these criteria are represented by fence heights and type of fence is intended to protect residential property owners from further damage while still promoting a sense of community. A 6' predominately open fence along the front yard 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 enhanced security and protection for the subject property and is unlikely to injure any 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 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 it does not violate any Clear Vision Standards.

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: Cruz

In Favor: Kaplan, Albert, Menchaca, Vasquez, Manna, Bragman, Miess, Ozuna, Oroian

Opposed: None

Motion Granted

Item #5

BOA-21-10300136: A request by Arcelia Sandoval for a 152 square foot variance from the 4000 square foot lot size requirement to allow a 3,848 square foot lot, located at 710 North Elmendorf Street. Staff recommends Approval. (Council District 1) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Staff stated 26 notices were mailed to property owners within 200 feet, 0 returned in favor, 0 returned in opposition, and no response from the Prospect Hill / West End Hope in Action neighborhood association.

Seprotec Translator assisted the applicant for translation services at the podium.

Arcelia Sandoval, applicant, requested a variance to build a two-story 3,848 sq. ft. residential structure on her lot. She stated her lot was small which is the reason for the two-story request.

Public Comment

Carlos Gonzales, 1512 Leal St, 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-21-10300136, as presented

Mr. Teel made a **motion** for BOA-21-10300136 for Approval,

Regarding Case No. BOA-21-10300136, I move that the Board of Adjustment grant a request for a 152 sq. ft. variance to the minimum 4,000 sq. ft. minimum lot requirement to allow a residential structure to be built on a lot size of 3,848 sq. ft., situated at 710 North Elmendorf Drive, applicant being Arcelia Sandoval, 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 residential home constructed on a lot of 3,848 sq. ft. is not contrary to the public interest as the applicant has adequate space from the 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 re-zone the property or leave it as an empty lot as there is an inadequate amount of square footage available per the minimum zoning requirements.

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 minimum lot size variance 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 for a minimum lot size variance 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 lots in the immediate 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 lack of available property in the local area to construct is limited.

Second: Bragman

In Favor: Kaplan, Albert, Menchaca, Vasquez, Cruz, Manna, Miess, Ozuna, Oroian

Opposed: None

Motion Granted

The Board of Adjustment recessed into a break at 2:53pm and reconvened at 3:01 pm.

Item #6

BOA-21-10300139: A request by Mario Manzano for a half story variance from the maximum 2 1/2 story building height limitation to allow a residential structure to be 3 stories, located at 206 South Mesquite Street. Staff recommends Approval. (Council District 2) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Staff stated 21 notices were mailed to property owners within 200 feet, 0 returned in favor, 1 returned in opposition and no response from the Alamodome Gardens neighborhood association.

Elbert Fuqua, representative, requested a ½ story variance to allow a 3-story residential structure to be built.

Public Comment:

Written:

Alan Neff, 1315 Wyoming St, opposed.

Mission San Jose Neighborhood Association, opposed.

Voicemails:

Cosima Colvin, 817 W Magnolia, opposed.

William Heilner, 1123 Wyoming St., opposed.

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-21-10300139, as presented

Mr. Manna made a **motion** for BOA-21-10300139 for Approval

Regarding Case No. BOA-21-10300139, I move that the Board of Adjustment grant a request for a ½ story variance to the maximum height allowed is 2.5 stories to allow a 3 story residential structure to be constructed, situated at 206 South Mesquite Drive, applicant being Mario Manzano, 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 construction of a 3 story residential structure 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 residential structure will be at maximum of 2.5 stories in height which would reduce the amount of livable space for the home 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 maximum building height is to provide uniformity 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 maximum height on residential structures allowed which 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 structures in the immediate area of this 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 Board finds that the plight of the property owner is sought due to the unique circumstances of limiting available living space on a residential structure can cause.

Second: Bragman

In Favor: Kaplan, Albert, Menchaca, Vasquez, Cruz, Miess, Teel, Ozuna, Oroian

Opposed: None

Motion Granted

The Board of Adjustment recessed into a break at 2:54pm and reconvened at 3:02 pm.

Item # 7

BOA-21-10300141: A request by David Gomez for 1) a 3' 10" variance from the minimum 10' front setback to allow a carport with 3' of overhang to be 6' 2" from the front property line, 2) a 4' 11" variance from the minimum 5' side setback requirement to allow a carport to be 1" from the side property line, 3) a 1' 3" special exception from the 5' maximum height requirement to allow a solid-screened front yard fence to be 6' 3" tall, and 4) a 7' 10" variance from the 15' minimum clear vision standards to allow a front yard fence to be 7' 2" away from the curb, located at 1419 West Gramercy Place. Staff recommends Denial with an Alternate Recommendation. (Council District 1) (Kayla Leal, Principal Planner (210) 207-00197, 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, and no response from the Keystone neighborhood association.

Sepritec Translator assisted the applicant for translation services at the podium.

David Gomez, applicant, requested a variance to keep his carport and amended his request to add 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-21-10300141 as presented.

Mrs. Teel made a **motion** for BOA-21-10300141 for Approval.

Regarding Case No. BOA-21-10300141, I move that the Board of Adjustment grant a request for 1) a 3' 10" variance from the minimum 10' front setback to allow a carport with 3' of overhang to be 6' 2" from the front property line, 2) a 4' 11" variance from the minimum 5' side setback requirement to allow a carport to be 1" from the side property line, 3), and 4) a 7' 10" variance from the 15' minimum clear vision standards to allow a front yard fence to be 7' 2" away from the curb, situated at 1419 West Gramercy Place, applicant being David Gomez, 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 to allow a carport to encroach into the side and front setback and a fence into the Clear Vision Field do 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 an unnecessary hardship. By imposing a literal enforcement, the carport width would not be adequate space for the parking 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 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 the side setback for the carport 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. The Clear Vision is only affecting the property owner, so this also does not appear to injure adjacent properties.

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

A Friendly Amendment was made on the following 2) for the variance to be 4' and 1' from the side property line. 4) stricken from the motion. Chair Oroian made another Friendly Amendment to include the addition of gutters. Mr. Manna accepted the amendments.

In Favor: Albert, Menchaca, Vasquez, Cruz, Bragman, Miess, Ozuna, Oroian

Opposed: Kaplan

Motion Granted

Motion for special exception to allow a 1' 3' special exception from the 5' maximum height requirement to allow a solid-screened front yard fence to be 6' 3" tall, failed due to lack of motion by the Board.

Item #8 Consideration and approval of the 2022 Board of Adjustment Meeting Calendar

Motion: Chair Oroian asked for a motion for approval of the 2022 Board of Adjustment Meeting calendar.

Ms. Cruz made a **motion** for approval of the 2022 Board of Adjustment Meeting calendar.

Second: Teel

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

Opposed: None

Motion Granted

Item #9 Consideration and approval of the minutes from the Zoning Board of Adjustment meeting on October 18, 2021.

Motion: Chair Oroian asked for a motion for approval of the October 18, 2021 minutes as amended.

Mrs. Bragman made a **motion** for approval of the October 18, 2021 minutes as amended.

Second: Cruz

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

Opposed: None

Motion Granted

Adjournment

There being no further business, the meeting was adjourned at 3:32 p.m.

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary