

City of San Antonio



DRAFT

Board of Adjustment Minutes

Development and Business Services
Center
1901 South Alamo

December 20, 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

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

1:01 P.M. - Call to Order

- **Roll Call**
- **Present:** Kaplan, Vasquez, Menchaca, Miess, Cruz, Manna, Bragman, Zuniga, Delmer, Teel, Oroian
- **Absent:** Britton, Albert, Ozuna

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 (POSTPONED) BOA-21-10300170: A request by Patrick Williams Christensen for a half-story variance from the two and a half-story maximum to allow a multi-family structure to be three stories tall, located in the 1400 Block of West Villaret Boulevard. Staff recommends Approval. (Council District 4) (Kayla Leal, Principal Planner (210) 207-0197, Kayla.Leal@sanantonio.gov, Development Services Department)

Item #2 (Continued from 11/15/2021) BOA-21-10300153: A request by Antonio and Lupe Centeno for a 5' variance from the 10' minimum front setback to allow a carport with 3' overhang to be 5' from the front property line, located at 7934 Veleta Street. Staff recommends Denial. (Council District 7) (Kayla Leal, Principal Planner (210) 207-00197, Kayla.Leal@sanantonio.gov, Development Services Department)

Staff stated 25 notices were mailed to property owners within 200 feet, 12 returned in favor, 0 returned in opposition, and there was no registered neighborhood association.

Antonio Centeno, applicant, requested a variance to keep his carport as is, 5' from the front property line.

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-21-10300153, as presented.

Mr. Manna made a **motion** for BOA-21-10300153 for approval.

Regarding Case No. BOA-21-10300153, I move that the Board of Adjustment grant a request for a 5' variance from the 10' minimum front setback to allow a carport with 3' overhang to be 5' from the front property line, situated at 7934 Veleta Street, applicant being Antonio and Lupe Centeno 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 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 applicant would need to relocate the structure 5’ further back which will not provide adequate coverage 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 request to reduce the front setback 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 to reduce the front setback for a carport does not appear to injure adjacent properties or 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: Teel

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

Opposed: Zuniga

Motion Granted

Item #3

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)

Applicant unable to attend Board of Adjustment Meeting and requested a continuance to the January 24, 2022 meeting.

Public Comment:

Voicemail:

Valerie Cortez, 508 Lamar St, opposed.

Chair Oroian asked for a motion for item BOA-21-10300175, to be continued to the January 24, 2022 Board of Adjustment meeting.

Ms. Cruz made a **motion** for BOA-21-10300175 to be continued.

Second: Bragman

In Favor: Kaplan, Vasquez, Menchaca, Miess, Cruz, Manna, Bragman, Delmer, Zuniga, Teel, Oroian

Opposed: None

BOA-21-10300175 continued to the January 24, 2022 Board of Adjustment Meeting.

Item #4

BOA-21-10300171: A request by Emilie Weissler for a 10% variance from the 80% maximum coverage requirement to allow a maximum lot coverage of 90%, located at 1610 North Saint Mary's Street. Staff recommends Approval. (Council District 1) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

Staff stated 10 notices were mailed to property owners within 200 feet, 0 returned in favor, 1 returned in opposition, and no response from the Downtown Residence Association.

Applicant unable to attend Board of Adjustment Meeting and requested a continuance to the January 10, 2022 meeting.

Public Comment:

Written: **Julian Rothofsky, 630 Dawson**, opposed.

Chair Oroian asked for a motion for item BOA-21-10300171, to be continued to the January 10, 2022 Board of Adjustment meeting.

Ms. Bragman made a **motion** for BOA-21-10300171 to be continued.

Second: Zuniga

In Favor: Kaplan, Vasquez, Menchaca, Miess, Cruz, Manna, Bragman, Delmer, Zuniga, Teel, Oroian

Opposed: None

BOA-21-10300171 continued to the January 10, 2022 Board of Adjustment Meeting.

Item #5 BOA-21-10300166: A request by Paco Felici for 1) a 4' 10" variance from the 10' minimum side setback requirement to allow a building awning to be 5' 2" from side property line and 2) a variance from the fencing material requirement allow a solid screened cast iron metal fence, located at 1616 Fulton Avenue. Staff recommends Approval. (Council District 1) (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, 0 returned in favor, 0 returned in opposition, and no response from the Keystone, Jefferson or Woodlawn Neighborhood Association.

Paco Felici, applicant, requested a variance to allow an awning to be 5'2" from the side property line for his art gallery.

Public Comment:

Voicemail:

Jennifer Stafford, 135 Beal, in favor.

Luis Trevino, 1514 Fulton Ave, 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-21-10300166, as presented.

Mr. Teel made a **motion** for BOA-21-10300166 for approval.

Regarding Case No. BOA-21-10300166, I move that the Board of Adjustment grant a request for 1) a 4' 10" variance to a 10' side setback to allow an awning to be 5' 2" from side property line and 2) a variance from the fencing material requirement to allow a solid screened cast iron metal fence, situated at 1606 Fulton Avenue, applicant being Paco Felici, 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 awning to be 5' 2" away from the side property line and to allow a solid screened metal fence 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 awning would have to be either removed entirely or remodeled to be 10' from the side property line and the solid screened fence would need to be removed.

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 awning is to prevent water damage to the interior of the building and the solid screened fence is for the security of the property 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 have an awning 5' 2" away from the side property line and to keep a solid screened metal fence 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 established neighborhood and is consistent with the 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 commercial building sitting below grade level and water runoff flowing into the building, the awning was erected to help alleviate this burden. The solid screen fence is decorative in nature and assist with the security of the building itself.

Second: Bragman

In Favor: Kaplan, Vasquez, Menchaca, Miess, Cruz, Manna, Bragman, Delmer, Zuniga, Teel, Oroian

Opposed: None

Motion Granted

**Chair Oroian called for the Board of Adjustment to take a recess at 2:24 P.M.
The Board of Adjustment reconvened at 2:32 P.M.**

Item #6 BOA-21-10300174: A request by Carlos Sanchez for a 3' 6" variance from the 5' side setback requirement to allow an accessory structure with 1' overhang to be 1' 6" from the side property line, located at 153 Oelkers Street. Staff recommends Denial with an Alternate Recommendation. (Council District 5) (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, 0 returned in opposition, and no response from the Lone Star Neighborhood Association,

Carlos Sanchez, applicant, requested a variance to keep his accessory structure as an investment project. The applicant formally amended his request 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-21-10300174 as presented.

Mr. Manna made a **motion** for BOA-21-10300174 for approval.

Regarding Case No. BOA-21-10300174, I move that the Board of Adjustment grant a request for a 3' 6" variance along the 25' side of the dwelling from the 5' side setback requirement to allow an accessory structure with 1' overhang to be 1' 6" from the side property line, situated at 153 Oelkers Street, applicant being Carlos Sanchez, 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 accessory structure to be 1' 6" away from the side property line 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 owner would not be able to renovate the back garage and leave it as a garage, or try and move the entire building 5' away from the 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 setback is to prevent sufficient space between the structure and the neighboring property lines. There are similar structures in the immediate area 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 have a side setback 1' 6" away from the side property line 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 established neighborhood and is consistent with other setbacks in the area. The applicant has amended their application such that gutters will be installed on the side of the 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 existing on the property and is not merely financial in nature.

Second: Cruz

In Favor: Kaplan, Vasquez, Menchaca, Miess, Cruz, Manna, Bragman, Delmer, Zuniga, Teel, Oroian

Opposed: None

Motion Granted

Item #7 BOA-21-10300159: A request by Rey Gutierrez for 1) a 4' 11" variance from the 5 foot minimum rear and side setback requirement to allow an accessory detached dwelling unit to be 1" from the side and rear property line and 2) a 2,164 square foot variance from the 4,000 square foot minimum requirement to allow a 1,836 square foot lot size, located at 1118 South Mesquite Street. Staff recommends Denial with an Alternate Recommendation. (Council District 2) (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, 1 returned in favor, 0 returned in opposition, and there was no response from the Denver Heights Neighborhood Association.

Applicant unable to attend Board of Adjustment Meeting and requested a continuance to the January 24, 2022 meeting.

No Public Comment

Chair Oroian asked for a motion for item BOA-21-10300159, to be continued to the January 24, 2022 Board of Adjustment meeting.

Ms. Bragman made a **motion** for BOA-21-10300159 to be continued.

Second: Cruz

In Favor: Kaplan, Vasquez, Menchaca, Miess, Cruz, Manna, Bragman, Delmer, Zuniga, Teel, Oroian

Opposed: None

BOA-21-10300159 continued to the January 24, 2022 Board of Adjustment Meeting.

Item #8

BOA-21-10300169: A request by Vicente Torres Leiva for 1) a 2' 9" variance from the 5' minimum setback requirement to allow a carport to be 2' 3" from the side property line and 2) a 7" variance from the 15' minimum clear vision requirement to allow a gate to be 14' 5" from the curb, located at 2946 West Ashby Place. Staff recommends Approval. (Council District 7) (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, 1 returned in favor, and 0 returned in opposition, and there was no response from the Woodlawn Lake Neighborhood Association.

Yessica Torres, applicant, requested a variance to keep her carport as is.

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-21-10300169 as presented.

Ms. Bragman made a **motion** for BOA-21-10300169 for approval.

Regarding Case No. BOA-21-10300169, I move that the Board of Adjustment grant a request for 1) a 2' 9" variance from the 5' minimum setback requirement to allow a carport to be 2' 3" from the side property line and 2) a 7" variance from the 15' minimum clear vision requirement to allow a gate to be 14' 5" from the curb, situated at 2946 West Ashby Place, applicant being Vicente Torres-Leiva, 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 for a side setback variance and clear vision variance are not contrary to the public interest. The property is on a corner lot, so there do not appear to be adverse effects caused by the variances.

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. Both the fence and the gate would need to be relocated and moved farther from the side property line, which is an unnecessary hardship.

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

The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. The variance requests appear 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 to reduce the side setback by 2' 9" and clear vision field by 7" in this case 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 due to the location on the corner and is not merely financial in nature.

Second: Teel

In Favor: Kaplan, Vasquez, Menchaca, Miess, Cruz, Manna, Bragman, Delmer, Zuniga, Teel, Oroian

Opposed: None

Motion Granted

Item #9

BOA-21-10300167: A request by Sylvia G. Gonzales for 1) a 10” special exception from the maximum 5’ fence height to allow a 5’10” predominately open fence along the front property line 2) a 3’ variance from the 15’ minimum clear vision requirement to allow a gate to be 12’ from the curb, located at 1018 Barclay. Staff recommends Approval. (Council District 5) (Rebecca Rodriguez, Planner (210) 207-0120, Rebecca.Rodriguez@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 registered neighborhood association.

Sylvia Gonzales, applicant, requested a variance for a 6’ fence for protection and security.

Public Comment:

Steve Castaneda, 9922 Rancho Real Rd, 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-21-10300167, as presented.

Ms. Cruz made a **motion** for BOA-21-10300167 for approval.

Regarding Case No. BOA-21-10300167, I move that the Board of Adjustment grant a request for a 3’ variance from the 15’ minimum clear vision standard, situated at 1018 Barclay, applicant being Sylvia G. 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 request to allow a front gate to be located 12’ from the curb 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 gate will be required to be moved 3' which will reduce the size of the front yard.

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. Staff does not find any adverse effects with the new predominately open front fence constructed along the front property line, so the spirit of the ordinance will be observed and substantial justice will be done.

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

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

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

The request to reduce a portion of the clear vision area does not pose a risk of substantially injuring the use of adjacent properties and does not seem likely to alter the essential character of the district. This property is located within an older neighborhood, and there are other non-conforming fences located along the front 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 and is not merely financial in nature.

Second: Teel

In Favor: Kaplan, Vasquez, Menchaca, Miess, Cruz, Manna, Bragman, Delmer, Zuniga, Teel, Oroian

Opposed: None

Motion Granted

Chair Oroian asked for a **motion** regarding the special exception for item **BOA-21-10300167** as presented.

Ms. Cruz made a **motion** for **BOA-21-10300167** for approval.

Regarding Case No. BOA-21-10300167, I move that the Board of Adjustment grant a 10” special exception from the maximum 5’ fence height, situated at 1018 Barclay, applicant being Sylvia G. 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:

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 10” in height is intended to provide additional privacy for 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. A 5’ 10” predominately open fence along the front 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 10” in height will not alter the essential character of the district. Numerous predominately open fences were observed in the immediate and surrounding area.

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: Teel

In Favor: Kaplan, Vasquez, Menchaca, Miess, Cruz, Manna, Bragman, Delmer, Zuniga, Teel, Oroian

Opposed: None

Motion Granted

Item #10 Consideration and approval of December 06, 2021 Board of Adjustment meeting minutes.

Motion: Chair Oroian asked for a motion for approval of the December 06, 2021 minutes as amended.

Mr. Manna made a **motion** for approval of the December 06, 2021 minutes as amended.

Second: Cruz

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

Opposed: Zuniga

Minutes approved with corrections.

Adjournment

There being no further business, the meeting was adjourned at 3:27 P.M.

APPROVED BY: _____ OR _____
Chairman Vice-Chair

DATE: _____

ATTESTED BY: _____ DATE: _____
Executive Secretary