

City of Alamo Heights
BOARD OF ADJUSTMENT
MINUTES
January 07, 2025

The Board of Adjustment held a special meeting in the Council Chambers of the City of Alamo Heights, located at 6116 Broadway St, and via Zoom with teleconference on Tuesday, January 07, 2025, at 5:30 p.m.

Members present and composing a quorum of the Board:

Bill Orr, Chairman
Lott McIlhenny
David Rose
Wayne Woodard

Members absent:

Jessica Drought
Sean Caporaletti, Alternate
Jimmy Satel, Alternate

Staff member present:

Phil Laney, Assistant City Manager
Lety Hernandez, Community Development Services Director
Dakotah Procell, Planner

The meeting was called to order by Chairman Orr at 5:38 p.m.

Mr. McIlhenny moved to approve the October 01, 2024 meeting minutes. Mr. Woodard seconded the motion.

The motion was approved with the following vote:

FOR: Orr, McIlhenny, Rose, Woodard
AGAINST: None

Mr. McIlhenny moved to approve the November 07, 2024 meeting minutes. Mr. Woodard seconded the motion.

The motion was approved with the following vote:

FOR: Orr, McIlhenny, Rose, Woodard
AGAINST: None

Mr. McIlhenny moved to approve the November 20, 2024 meeting minutes. Mr. Woodard seconded the motion.

The motion was approved with the following vote:

FOR: Orr, McIlhenny, Rose, Woodard
AGAINST: None

Case No. 2418 – 223 Allen St.

Application of Caroline McDonald of Brown & McDonald PLLC, representing Yvette Almendarez and Jorge Cavazos, owners, requesting the following variance(s) in order to construct a new outdoor fireplace on the property located at **CB 4024 BLK 58 LOT 16 & 17 & W 40.81 X 50 OF ALLEN ST**, also known as **223 Allen St.** zoned SF-A:

1. A proposed fireplace, accessory structure, to be located on the side of the front main building instead of the rear of the main building per Sec. 3-85(1) of the City's Code of Ordinances.

Ms. Hernandez read the caption and began presenting the case. A technical issue occurred, and staff requested the Chairman issue a brief recess. Chairman Orr issued a meeting recess at 5:42pm and called the meeting back into order at 5:54pm. Ms. Hernandez presented the remainder of the case. Ken Brown of Brown & McDonald PLLC, representative for Yvette Almendarez and Jorge Cavazos, owners, was present and addressed the board. The outdoor fireplace was constructed because the builder and owners felt the structure was behind the front of the main residence and thus in the rear yard of the property. The gas fireplace is in a courtyard near the south property line at a height below the neighboring property's fence. A variance was being sought from the section of code requiring accessory structures to be built in the rear yard. There have been many variances associated with the property, but the representative stated that this is the last variance being sought by owner. Cameron Campbell, landscape architect, addressed the Board and presented handouts of the proposed courtyard that includes the outdoor fireplace. Proposed landscaping will screen neighbor from 11ft tall fireplace.

Chairman Orr opened the public hearing at 6:06pm. No one requested to speak with interest in the case, so the public hearing was closed.

Board members discussed the large number of variances requested for the new-build project, as well as the second time an improvement had been constructed and variances were requested after the fact. The outdoor fireplace was not approved on the original building plans, and it was partially constructed at the time it was identified by the City's contracted building inspector at a final inspection. Members expressed disappointment at the situation and asked to speak to the builder. Collier Bashara of Collier Custom Homes was present and addressed the Board. He stated he thought the outdoor fireplace was on the original sets of plans but indicated they had gone through several rounds of plans during the two years of construction. Most of the variances granted to the project were during the design phase to determine what features would be permitted. He admitted that constructing the fireplace was a mistake. Board members expressed concerns about setting a precedent with granting a variance to an already-constructed structure and the possibility of other properties requesting a similar action by BOA. Staff were asked if there was a placement for the fireplace that would not require a variance. Ms. Hernandez replied that if the fireplace was attached to the main structure, it could be located at the front or side of the main structure. There was additional conversation about the fireplace's placement in relation to the front wall and side fence.

The board asked the representative if there had been discussions with the City to rebuild the fireplace in a location compliant with the code. Mr. Brown replied that there had been conversations with the City but not about relocating it. Ms. Almendarez addressed the board, saying that there had been several discussions with the City since the issue was identified in June. She expressed that she felt the placement was allowed by Code due to its placement in a courtyard and attachment to the front wall.

Mr. Woodard moved to approve the variance as requested but there was no second. Mr. Lancy stated that the applicant could request the case be tabled to allow for five (5) board members to be present adding that a denial for the variance request, if issued, would delay the case from being brought back to the BOA for a period of six (6) months. Members expressed frustration with the presence of only four (4) board members. When asked how the owners would like to proceed, Ms. Almendarez addressed the board and stated that she wanted to address any of the board's concerns with the request and described reasons for not bringing the case until now. Mr. Rose expressed frustration that no alternatives were brought by the applicant on how to bring the fireplace into compliance. Mr. Brown addressed the board to request an appeal of the interpretation of the structure. There was discussion on whether the interpretation could still be appealed and whether the case would be tabled.

Members asked staff if the outdoor fireplace is considered an accessory structure, per the City code. Mr. Lancy replied that staff feels it meets the definition of an accessory structure, though it's not specifically called out, but if the board disagrees that it is not, then the board could make that ruling and allow it. Board members discussed attributes of an accessory structure and whether the outdoor fireplace qualified. Mr. Lancy reminded the board that it had previously approved a variance for an accessory structure, a swimming pool, in the same location as where the fireplace was constructed. The board concluded the definition of accessory structure did not include outdoor fireplace, though it probably could be added, and thus the fireplace should not be considered an accessory structure.

Mr. Rose recommended another motion be made. Staff reminded that a motion was already made by Mr. Woodard. Mr. McIlhenny seconded the motion to approve as requested.

The motion was approved with the following vote:

FOR: Orr, McIlhenny, Rose, Woodard

AGAINST: None

Case No. 2419 – 925 Cambridge Oval

Application of Chris Berneche of Nucos Pools, applicant, and AR Perez, owner, requesting the following variance(s) in order to construct a new circular driveway on the property located at **CB 4024 BLK 49 LOT 37&38**, also known as **925 Cambridge Oval**, zoned SF-A:

1. A proposed circular driveway on a fifty (50) foot wide lot instead of the minimum sixty-five (65) feet required per section 3-21 of the City's Zoning Code.

Ms. Hernandez presented the case. Chris Berneche was present and addressed the board. He described their intention to add a circular driveway on the property. The owner, AR Perez, was also present and described the history of the home, built in 1881, and changes to the front of the home, including no parking in the front after the alley was constructed and a garage added in the back of the property.

The board discussed alternatives to extend the existing driveway to the back yard. There were concerns about the hardship and the difficulty of larger cars navigating the narrow lot.

Chairman Orr opened the public hearing at 6:53pm. No one requested to speak with interest in the case, so the public hearing was closed.

Mr. Rose moved to approve the variances as requested. Mr. McIlhenny seconded the motion.

The motion was approved with the following vote:

FOR: Orr, McIlhenny, Rose, Woodard

AGAINST: None

Case No. 2415 – 340 Abiso Ave

Application of Fabian Coronado of Keith Zars Pools, representing Robert and Emily McRae, owners, requesting the following self-identified variance(s) in order to construct a new pool and deck structure on the property located at **CB 4024 BLK 118 LOT 1**, also known as **340 Abiso Ave**, zoned SF-B:

1. A proposed 2-foot 2-inch side yard setback on the west side of the main structure instead of the minimum 6-foot required per Section 3-15(2),
2. A proposed 4-foot 2-inch side yard setback on the east side of the main structure instead of the minimum 6-foot required per Section 3-15(2),
3. A proposed 2-foot 7-inch side yard setback on the east side of pool equipment instead of the minimum 3-foot required per Section 3-82(5), and
4. The proposed patio structure exceeds the height looming standards per Section 3-19(2)(a) of the City's Zoning Code.

Ms. Hernandez presented the case. Fabian Coronado was present and addressed the board and described the placement of the pool equipment and its associated plumbing. The board asked if the orientation of the pool equipment could be turned around to not encroach into the setback. Mr. Coronado thought that it could be moved but stated that he would need to review further. He stated the other variances related to the need to remove the patio structure to allow for more space for the pool. Ms. Hernandez noted the variance requests were self-identified, and staff would need more information to determine if the variance request for the patio was necessary. The board advised the applicant to review the pool equipment placement/orientation and work with the City to determine the number of variances needed, which would likely be fewer than the four requested. Mr. Coronado requested to table the case until the next meeting.

Mr. Rose moved to table the case to the next meeting of February 04, 2025. Mr. McIlhenny seconded the motion.

The motion was approved with the following vote:

FOR: Orr, McIlhenny, Rose, Woodard

AGAINST: None

Case No. 2420 – 316 Blue Bonnet Blvd

Application of Walter Blanchard, owner, requesting the following variance(s) in order to build a new shed in the rear yard on the property located at **CB 5571A, BLK 9, LOT 72**, also known as **316 Blue Bonnet Blvd**, zoned SF-A:

1. The proposed lot coverage of 42.08% exceeds the maximum 40.00% allowed per Section 3-17, and
2. The proposed wall plate of the accessory structure exceeds the height looming standard per Section 3-19(5)(a) of the City's Zoning Code.

Ms. Hernandez presented the case. Walter Blanchard, owner, addressed the board. A prior structure was in the proposed location, but the owner demolished it. The board discussed ways the structure design could be modified to meet looming standards and what the structure would be used for. Mr. Blanchard noted this structure would be next to the neighbor's driveway, and the neighbor is supportive. The structure would house a pool bathroom, tool shed, and pool pump equipment.

Chairman Orr opened the public hearing at 7:15pm. No one requested to speak with interest in the case, so the public hearing was closed.

Mr. Woodard asked staff for clarification regarding maximum impervious coverage on a lot. Ms. Hernandez responded that there is no limit to the amount of impervious coverage outside of the minimum front yard setback area, so long as there is no negative impact on neighboring properties.

Mr. McIlhenny moved to approve the variances as requested. Mr. Rose seconded the motion.

The motion was approved with the following vote:

FOR: Orr, McIlhenny, Rose, Woodard

AGAINST: None

Case No. 2421 – 5431 N New Braunfels Ave

Application of Jeffery Pepper of Easter Concrete, representing Ron Malek, owner, requesting the following variance(s) in order to remove and replace the existing off-street parking located in the front yard of the property located at CB 4050, BLK 69, LOT 17 & 18, also known as 5431 N New Braunfels Ave, zoned MF-D:

1. The proposed off-street parking area located in the front yard instead of to the side or rear yard, behind the front face of the building, as required in Section 3-49(1) of the City's Zoning Code.

Ms. Hernandez presented the case. At the time of construction, parking was permitted in the front yard area in the district, but that is currently not allowed now. The practice has been that repairs made be made, but if a non-compliant feature is being replaced, then it must be brought into compliance. Jeffery Pepper of Easter Concrete, and Ron Malek, owner, addressed the board. Mr. Malek stated that this portion is used as a turn-around for his vehicle in order to more safely exit onto N New Braunfels.

Chairman Orr opened the public hearing at 7:21pm. No one requested to speak with interest in the case, so the public hearing was closed.

Mr. Rose moved to approve the variances as requested. Mr. McIlhenny seconded the motion.


The motion was approved with the following vote:

FOR: Orr, McIlhenny, Rose, Woodard

AGAINST: None


There being no further business, Mr. McIlhenny moved to adjourn the meeting. Mr. Woodard seconded the motion followed by unanimous consent of the board. The meeting was adjourned at 7:23pm.

THE PROCEEDINGS OF THE MEETING ARE ALSO DIGITALLY RECORDED, AND THESE MINUTES ARE ONLY A SUMMARY OF THE MEETING. THESE MINUTES ARE NOT A VERBATIM TRANSCRIPT OF THE PROCEEDINGS AND DO NOT PURPORT TO INCLUDE ALL IMPORTANT EVIDENCE PRESENTED OR STATEMENTS MADE.


Bill Orr, Chairman
(Board Approval)

David Rose
Acting Chair

04/02/2025
Date Signed & Filed


Lety Hernandez, Director
Community Development Services