



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** July 15, 2024

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

**DEPARTMENT HEAD:** Amin Tohmaz, Interim Department Head

**CASE NUMBER:** BOA-24-10300101

**APPLICANT:** Ivan Almaguer

**OWNER:** Argo Real Estate Investments, LLC

**COUNCIL DISTRICT IMPACTED:** District 1

**LOCATION:** 342 Viendo Street

**LEGAL DESCRIPTION:** Lot north 93 feet of 1, Block 215, NCB 3942

**ZONING:** “R-4 CD AHOD” Residential Single-Family Airport Hazard Overlay District with a Conditional Use for two (2) dwelling units.

**CASE MANAGER:** Melanie Clark, Planner

**A request for**

A 10’ variance from the minimum 20’ setback to allow a structure to be 10’ from the rear setback. Section 35-310.01

**Executive Summary**

The subject property is located less than quarter of a mile west of Interstate 10, Approx 100’ south of West Hildebrand Avenue on the corner intersection of Santa Paula Avenue and Viendo Street. The subject property was rezoned in 2023 to “R-4 CD” with conditional use to allow two residential dwellings on a 4,000 square foot lot. The first residential structure has been constructed and the applicant is requesting a 10’ rear setback variance to allow a proposed second residential structure to be 10’ from the rear property line. The lot is addressed off of Viendo, Street, as such what appears to be the new construction’s side setback is the lot’s rear setback. The recent rezoning

was approved for a minor site plan amendment as illustrated on the BOA Site Plan. Permit is pending Board of Adjustment approval.

**Code Enforcement History**

No Code Enforcement history found.

**Permit History**

RES-RBP-PMT24-36601253 - Residential New Building Permit

RES-RBP-APP24-35500840 - Residential New Building Permit

**Zoning History**

The subject property was part of the original 36 square miles of the City of San Antonio. The property was originally zoned as “B” Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “B” Residence District converted to “R-4” Residential Single-Family District. The property was rezoned by Ordinance 2023-09-21-0696 dated, September 21, 2023, to the current “R-4 CD” Residential Single-Family District with a Conditional Use for two (2) dwelling units.

**Subject Property Zoning/Land Use**

**Existing Zoning**

“R-4 CD AHOD” Residential Single-Family Airport Hazard Overlay District with a Conditional Use for two (2) dwelling units.

**Existing Use**

Two Dwelling Units Single-Family Residence

**Surrounding Property Zoning/ Land Use**

**North**

**Existing Zoning**

“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**South**

**Existing Zoning**

“C-2 AHOD” Commercial Airport Hazard Overlay District

**Existing Use**

Office Professional/Insurance Sales

**East**

**Existing Zoning**

“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**West**

**Existing Zoning**

“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District  
**Existing Use**  
Single-Family Residence

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Near Northwest Community Plan and is designated as “Urban Low Density Residential” in the future land use component of the plan. The subject property is located within the notification area of Los Angeles Heights Neighborhood Association, San Antonio Texas District One Resident Association and the Keystone Neighborhood Association and they have been notified of the request.

**Street Classification**

Viendo Steet is classified as a local road.

Santa Paula Avenue is classified as a local road.

Approximately 100’ north of West Hildebrand Avenue, which is classified as a Secondary Arterial Type B.

**Criteria for Review – Rear Setback Variance**

According to Section 35-482(e) of the UDC, in order for a variance to be granted, the applicant must demonstrate all of the following:

*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. In this case, the public interest is represented by restricted setbacks to provide spacing between property line and structures. Staff finds that a 10’ rear setback is suitable, as it provides suitable distance from the shared property line in what would normally be a 5’ side setback.

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

Staff has found special conditions that would result in an unnecessary hardship such as the available space. The first structure leaves limited space to construct a suitable size dwelling unit.

*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. In this case, the intention is for sufficient spacing between structures, property lines, and right of ways. The structure observes the spirit of the ordinance and intention of the code as it will provide a 10’ separation from a commercial use lot.

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

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

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

If granted, a second dwelling unit on a single-family residential lot will be 10' from the rear setback abutting a commercial lot. This will provide adequate distance between commercial and residential use as the position of the dwelling structure's side is facing the commercial lot.

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

Staff finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property. The lot is limited in size and the position of the structure will be on the traditional side setback with a driveway in between the abutting lot.

#### **Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the setback requirements of the UDC Section 35-310.01.

#### **Staff Recommendation – Rear Setback Variance**

Staff recommends Approval in BOA-24-10300101 based on the following findings of fact:

1. The location of the rear setback variance is on the traditional side setback with a driveway in between the abutting lot.
2. The variance will not alter the essential character of the district.