



City of San Antonio

Agenda Memorandum

Agenda Date: October 21, 2024

In Control: Board of Adjustment Meeting

DEPARTMENT: Development Services Department

DEPARTMENT HEAD: Amin Tohmaz, Interim Department Head

CASE NUMBER: BOA-24-10300194

APPLICANT: Humberto Leal

OWNER: Raul & Lorena Mendez

COUNCIL DISTRICT IMPACTED: District 4

LOCATION: 1707 West Mally Boulevard

LEGAL DESCRIPTION: Lot 24, Block 1, NCB 11071 and Lot 1, Block 102, NCB 11071

ZONING: "R-4 MLOD-2 MLR-2 AHOD" Residential Single-Family Lackland Airforce Base Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

CASE MANAGER: Colton Unden, Planner

A request for

1) A 2'-6" variance from the minimum 5' side setback to allow a 2'-6" side setback for an accessory structure on the west property line.

Section 35-370(b)(1)

2) A 2'-10" variance from the minimum 5' side setback to allow a 2'-2" side setback for an accessory structure on the east property line.

Section 35-370(b)(1)

3) A variance from the fence materials to allow for a corrugated metal fence on the property.

Section 35-514(a)(6)

Executive Summary

The subject property is located along West Mally Boulevard, west of South Zarzamora Street not located within any Neighborhood Association. The applicant is requesting variances for two recently constructed accessory structures in the rear, one on the west property line and one on the east property line. Additionally, the applicant is requesting a variance to allow corrugated metal fencing that is present along the side and rear of the yard. Because the applicant has a qualifying pool, they are allowed up to 8 feet in length on their side and rear fence. Aside from the accessory structures, the rear yard contains several trees and an underground pool. The underground pool is not considered an accessory structure and would be impact the maximum 50% rear/side yard coverage. Property owner currently have a preliminary Plat to combine both lots into one.

Code Enforcement History

INV-PBP-24-3100004724 - PMT-Building Without a Permit – Pending Resolution
INV-ZRD-24-3170002383 – Zoning (Fence Material) – Pending Resolution

Permit History

MEP-ELE-PMT24-33325289 – Electrical General Permit
RES-SWM-PMT24-32601266 – Swimming Pool Permit
MEP-ELE-PMT24-33313685 – Electrical General Permit

Zoning History

The property was annexed into the City of San Antonio by Ordinance 18115, dated September 24, 1952, and zoned “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 the current “R-4” Residential Single-Family District.

Subject Property Zoning/Land Use

Existing Zoning

“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Airforce Base Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

Existing Use

Single-Family Dwelling

Surrounding Property Zoning/ Land Use

North

Existing Zoning

“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Airforce Base Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

Existing Use

Single-Family Dwelling

South

Existing Zoning

“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Airforce Base Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

Existing Use

Single-Family Dwelling

East

Existing Zoning

“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Airforce Base Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

Existing Use

Single-Family Dwelling

West

Existing Zoning

“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Airforce Base Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

Existing Use

Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the West/Southwest Sector Plan and is designated as “General Urban Tier” in the future land use component of the plan. The subject property is not located within the notification boundaries of any Neighborhood Association.

Street Classification

West Mally Boulevard is classified as a Local Road.

Criteria for Review – Side Setback on the East and West Property Lines for Accessory Structures and Corrugated Metal Fence Material Variances

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 reduced side setbacks and fence material requirements. The requested variance is contrary to the public interest as there is no additional security or screening need that would require a prohibited fence material that cannot be achieved with an allowed fence material and the reduced side setback standard creates water runoff and potentially reduce fire mitigations.

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

A literal enforcement of the side setbacks and fence material ordinances would not result in unnecessary hardship as the applicant could replace the fence material to an approved one and sufficient space exists in the rear yard to meet the side setback standards.

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

The requested accessory structure side setback and fence material variance does not appear to be in the spirit of the ordinance as the corrugated fence material was not seen in the immediate area and its usage provides no additional security or screening that would otherwise be served by an approved fence material. Additionally, side setback standards were created and reduced for accessory structures to provide sufficient space between structure and property line.

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.

Staff finds the side setback and fence material variances will substantially injure the appropriate use of adjacent properties as the corrugated fence material was not seen in the immediate area and its usage provides no additional security or screening that would otherwise be served by an approved fence material. Additionally, the reduced side setbacks for the accessory structures will alter the essential character of the district by creating a reduced standard.

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 no unique circumstance existing on the property warranting the need to have corrugated metal fence material or reduce side setbacks for accessory structures. Its usage provides no additional security or screening that would otherwise be served by an approved fence material and the rear yard provides ample space to meet the minimum side setback requirement.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the accessory structure setback and fence material requirements of the UDC Sections 35-370(b)(1) and 35-514(a)(6).

Staff Recommendation – Side Setback on the East and West Property Lines for Accessory Structures, and Corrugated Metal Fence Material Variances

Staff recommends Denial in BOA-24-10300194 based on the following findings of fact:

1. The rear yard provides ample space to meet the minimum side setback requirement.
2. No corrugated metal fencing material was seen in the immediate area.
3. The variances will alter the essential character of the district.