

Case Number:	BOA-23-10300313
Applicant:	Johnny Goetz
Owner:	Johnny and Tracy Goetz
Council District:	NA
Location:	511 Spacious Sky
Legal Description:	Lot 6, Block 91, CB 4847B
Zoning:	“OCL PMRES” Outside City Limits Permit Required Residential Single-Family
Case Manager:	Colton Uden, Planner

**Request**

A request for a 3’-4” from the minimum 5’ rear setback, as described in Section 35-516(h), to allow a pool with a 1’-8” rear setback.

**Executive Summary**

The subject property is located along Spacious Sky, east of Blanco Road along Camp Bullis. The applicant is requesting a 3’-4” variance from the minimum rear setback requirements, as described in Section 35-310.01, to allow a pool with a 1’-8” rear setback. A 2017 agreement in lieu of annexation requires single-family development to abide by development standards in the Unified Development Code, specifically accessory structures at 500 square feet or more must comply with setback standards.

**Code Enforcement History**

There is no relevant code history for the subject property.

**Permit History**

The issuance of a building permit is pending the outcome of the Board of Adjustment.

**Zoning History**

No Zoning History

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“OCL PMRES” Outside City Limits Permit Required Residential Single-Family	Single-Family Dwelling

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“OCL PMRES” Outside City Limits Permit Required Residential Single-Family	Single-Family Dwelling
South	“OCL PMRES” Outside City Limits Permit Required Residential Single-Family	Single-Family Dwelling
East	“OCL PMRES” Outside City Limits Permit Required Residential Single-Family	Single-Family Dwelling
West	“OCL PMRES” Outside City Limits Permit Required Residential Single-Family	Single-Family Dwelling

### **Comprehensive Plan Consistency/Neighborhood Association**

The subject property is located within the North Sector Plan and is designed as “Rural Estate Tier” in the future land use component of the plan. The subject property is not located within the boundary of any registered neighborhood association.

### **Street Classification**

Spacious Sky is classified as a local road.

### **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 setback requirements. The applicant is requesting a variance to the rear setback to allow a pool to be 1’-8” from the property line. This distance does not provide adequate spacing between properties and paired with notable sloping in the area may create additional water run off issues.

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

Staff found no other special conditions on the subject property to warrant the need for a reduced setback. A literal enforcement of the ordinance would not result in an unnecessary hardship, as the applicant could alter the location of the pool on the property to abide by the minimum distances required.

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 finds that the granting of this variance will not observe the spirit of the ordinance, as the pool can be constructed elsewhere without violating the setback requirements and the risk of water run off related issues could be exacerbated.

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 pool will be 1’-8” from the rear property line. This will injure the appropriate use of adjacent conforming properties. Additionally, upon site visits, staff did not observe nearby properties encroaching into rear setbacks.

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 not due to unique circumstances existing on the property. The property presents an alternate location for the swimming pool to abide by the required setbacks.

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

The alternative to the applicant's request is to conform to the swimming pool setback standards of the UDC Section 35-516(h).

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

Staff recommends Denial in BOA-23-10300313 based on the following findings of fact:

1. The distance does not provide adequate spacing between properties, and the presence of a pool near the property line may create water run off issues to abutting properties.
2. The subject property presents an alternate location for the swimming pool to abide by the required setbacks.