



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** August 19, 2024

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

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

**CASE NUMBER:** BOA-24-10300105

**APPLICANT:** Martin Hagan

**OWNER:** Martin Hagan

**COUNCIL DISTRICT IMPACTED:** District 10

**LOCATION:** 3240 LeBlanc Street

**LEGAL DESCRIPTION:** Lot 42, Block 20, NCB 17835

**ZONING:** "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District

**CASE MANAGER:** Melanie Clark, Planner

**A request for**

1) A request for a 3'-6" variance from the minimum 5' side setback to allow a detached accessory structure with a 1'-6" side setback.

Section 35-370 (b)(1)

2) A 4' variance from the minimum 5' rear setback to allow a detached accessory structure with a 1' rear setback.

Section 35-370 (b)(1)

**Executive Summary**

The subject property is located south of Loop 1604 North, east of Thousand Oaks Drive on the corner intersection of Rowe Drive and LeBlanc Street. On May 16, 2024, the applicant, also the property owner, was cited by Code Enforcement for building a detached Accessory Structure without a permit. The applicant is requesting the side and rear setback variances to allow the

structure to remain 1’-6” from the side setback and 1’ from the rear setback. Permit is pending the outcome of the Board of Adjustment.

**Code Enforcement History**

INV-PBP-24-3100002715 - PMT-Building Without A Permit

**Permit History**

The applicant has not yet applied for the building permit.

**Zoning History**

The subject property was annexed into the City of San Antonio by Ordinance 61612 dated, December 29, 1985, and zoned Temporary “R-1” Single-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned Temporary “R-1” Single-family Residence District converted to “R-6” Residential Single-Family District.

**Subject Property Zoning/Land Use**

**Existing Zoning**

“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District

**Existing Use**

Single -Family Residential

**Surrounding Property Zoning/ Land Use**

**North**

**Existing Zoning**

“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District

**Existing Use**

Single-Family Residential

**South**

**Existing Zoning**

“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District

**Existing Use**

Single-Family Residential

**East**

**Existing Zoning**

“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District

**Existing Use**

Single-Family Residential

**West**

**Existing Zoning**

“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

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

The subject property is in the Northeast/San Antonio International Airport Vicinity and is designated as “Low Density Residential” / “Suburban Tier” in the future land use component of the plan. The subject property is located within the notification area of Eden Homeowner Association, and they have been notified of the request.

### **Street Classification**

LeBlanc is classified as a local road.

Rowe Drive is classified as a local road.

### **Criteria for Review – Side and 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 the minimum side and rear setback requirements, as they ensure the accessory structure is positioned a safe and suitable distance from property lines. Staff finds a 1’-6” side setback and 1’ rear setback is not suitable as it is too close to the shared property line, limits access around structure for upkeep and will create water runoff onto neighboring lot.

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

Staff has found no special condition that would result in an unnecessary hardship. There is adequate space for the accessory structure to be constructed to meet the side setback requirements.

*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 5’ side and rear setback is to leave sufficient space between structure and abutting property. The requested variances will cause the detached accessory structure to be too close to the shared property line and neighboring property.

*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, the accessory structure will maintain a 1'-6" side and 1' rear setback, which would alter the essential character of the district and appropriate use of the adjacent conforming property. Water runoff can significantly alter the use of the residential home abutting the subject 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.*

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. There is adequate space for the accessory structure to be constructed to meet the side setback requirements.

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

The alternative to the applicant's request is to conform to the side and rear setback standards of the UDC Section 35-370 (b)(1)

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

Staff recommends Denial in BOA-24-10300105 based on the following findings of fact:

1. The distance is not suitable, as it imposes on the public interest of the adjacent neighbor by being too close to the shared property line.
2. Limits access general upkeep of the structure and will create water runoff onto neighboring lot.