



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** April 22, 2024

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

**DEPARTMENT HEAD:** Michael Shannon

**CASE NUMBER:** BOA-24-10300046

**APPLICANT:** Maasias Montejano

**OWNER:** Maasias Montejano

**COUNCIL DISTRICT IMPACTED:** District 2

**LOCATION:** 411 Sandmeyer Street

**LEGAL DESCRIPTION:** South 99 feet of Lot 12, Block 2, NCB 3134

**ZONING:** "R-6 MLOD-3 MLR-2 AHOD" Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

**CASE MANAGER:** Colton Uden, Planner

**A request for**

A 5' variance from the minimum 20' rear setback to allow an addition to be 15' from rear setback. Section 35-310.01

**Executive Summary**

The subject property is located along Sandmeyer Street, north of I-35 and east of North New Braunfels Avenue. The applicant received a build permit in December 2023 through a site plan indicating that the new addition to the home was to be constructed abiding by the rear property setback. Buildings must be setback 20' from the rear property line in the zoning district the property is located within. The addition to the home, as built, encroached 5' into the rear property setback, at 15' from the rear property line. Applicant indicated the addition was for an extra bathroom.

**Code Enforcement History**

INV-ZPS-24-3160000573 (Zoning UDC Investigation – Property Setback) – Pending

**Permit History**

The applicant has not yet applied for the building permit.

**Zoning History**

The subject property was located within the original 36 square miles of the City of San Antonio and zoned “C” Apartment District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “C” Apartment District converted to “MF-33” Multi-Family District. The property was rezoned by Ordinance 2008-10-16-0955, dated October 16, 2008, to “R-6” Residential Single-Family District.

**Subject Property Zoning/Land Use****Existing Zoning**

“R-6 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**Surrounding Property Zoning/ Land Use****North****Existing Zoning**

“R-6 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**South****Existing Zoning**

“R-6 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**East****Existing Zoning**

“R-6 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**West****Existing Zoning**

“R-6 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

## **Existing Use**

Single-Family Residence

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

The subject property is in the Government Hill Neighborhood Plan and is designated as “Low Density Residential” in the future land use component of the plan. The subject property is located within the boundary of the Government Hill Alliance Neighborhood Association, and they have been notified of the request.

## **Street Classification**

Sandmeyer Street 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 restricted setbacks to provide suitable spacing between structures. The applicant is requesting a variance to the rear setback to allow a structure to be 15’ from the rear property line. Staff finds that this an allowable amount of spacing, as the structure will provide a suitable distance from neighboring properties. Additionally, the addition is abutting the portion of the backyard with no structure located on it.

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

A literal enforcement of the ordinance would result in the applicant altering the built structure to adhere by the rear setback requirement. This would result in an unnecessary hardship, as this would not allow for a sizeable single-family home with adequate bathrooms.

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

In this case, the proposed rear setback will adhere to the spirit of the ordinance and substantial justice will be done by allowing for suitable distances between structures and neighboring properties. Additionally, the structure will abide by the front and side setback requirements.

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.*

A 15' rear setback for the structure does not appear to alter the essential character of the district nor will it injure adjacent properties.

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 circumstances do not appear to be merely financial.

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

The alternative to the applicant's request is to conform to the Setback Regulations Section 35-310.01.

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

Staff recommends Approval in BOA-24-10300046 based on the following findings of fact:

1. The addition will abide by the side setback, and
2. The addition is abutting the portion of the backyard with no structure located on it..