



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** November 4, 2024

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

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

**CASE NUMBER:** BOA-24-10300207

**APPLICANT:** Adon Ochoa

**OWNER:** Antonio Perez

**COUNCIL DISTRICT IMPACTED:** District 2

**LOCATION:** 314 Muncey Street

**LEGAL DESCRIPTION:** North 90 feet of Lot 20, Block F, NCB 1658

**ZONING:** “R-5 H MLOD-3 MLR-2 AHOD” Residential Single-Family Historic Dignowity Hill Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

**CASE MANAGER:** Melanie Clark, Planner

**A request for:**

1) A 15’-6” variance from the 20’ rear setback requirement to allow an addition to an existing primary structure to be 4’-6” from the rear property line.  
Section 35-310.01

**Executive Summary**

Subject property is located south of Interstate 35, west of North New Braunfels Avenue, north of Nolan Street on Muncey Street. Bexar County records indicate that the original primary structure, built in 1930, has 929 square feet of living area. The current location of the existing primary structure places limitations on expansion, as the north side of the property abuts an alleyway, and a pre-existing detached garage, constructed in 1980, is located on south side of the property. The applicant, on behalf of the property owner, is requesting a 15’-6” rear setback variance to allow a

proposed addition to the existing primary structure to be 4'-6" from the rear setback. The variance would allow the property owner to garner more livable space to reside comfortably on the property. Permits are pending the outcome of the Board of Adjustment.

### **Code Enforcement History**

No Code Enforcement history found.

### **Permit History**

RES-ADD-PMT24-32501454-Building/Addition Permit

### **Zoning History**

Subject property was part of the original 36 square miles of the City of San Antonio and zoned "D" First Apartment District. The property was rezoned by Ordinance 70785 dated, December 14, 1989, to "R-2" Two Family Residence District. With the adoption of the 2001 Unified Development Code (UDC), established by Ordinance 93881, on May 3, 2001, the zoning converted from "R-2" Residence district to "RM-4" Residential Mixed District. The property was rezoned by Ordinance 2012-12-06-0978 dated December 6, 2012, from "RM-4" Residential Mixed District to "R-5" Single Family Residential District.

### **Subject Property Zoning/Land Use**

#### **Existing Zoning**

"R-5 H MLOD-3 MLR-2 AHOD" Residential Single-Family Historic Dignowity Hill Martindale Army Air Field 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-5 H MLOD-3 MLR-2 AHOD" Residential Single-Family Historic Dignowity Hill Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

#### **Existing Use**

Single-Family Residence

#### **South**

#### **Existing Zoning**

"R-5 H MLOD-3 MLR-2 AHOD" Residential Single-Family Historic Dignowity Hill Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

#### **Existing Use**

Single-Family Residence

#### **East**

#### **Existing Zoning**

“R-5 H MLOD-3 MLR-2 AHOD” Residential Single-Family Historic Dignowity Hill Martindale  
Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay  
District

**Existing Use**

Single-Family Residence

**West**

**Existing Zoning**

“R-5 H MLOD-3 MLR-2 AHOD” Residential Single-Family Historic Dignowity Hill Martindale  
Army Air Field 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 Eastside Community Area 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 the Dignowity Hill Neighborhood Association, and they have been notified of the request.

**Street Classification**

Muncey 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 distance between the structure and the rear setback. The variance will leave 4’-6” from the rear setback which provides ample room and will not be contrary to the public interest and the addition directly abuts no structures on the neighboring lot.

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

Staff found special conditions on the property that would result in unnecessary hardship such as the configuration of the lot and existing structures which creates limited space in the rear yard for expansion of the existing structure.

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

The variance will observe the spirit of the ordinance and substantial justice will be done as the requested variance is limited to the rear of the property and the project will abide by the remaining 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.*

The reduced rear setback will not substantially injure the appropriate use of the adjacent conforming property as the proposed 4'-6" rear setback will leave sufficient room and will not alter the essential character of the district.

*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.*

The variances are sought due to unique circumstances existing on the property such as the location of the existing historical structure and current lot dimensions. These circumstances were not created by the property owner.

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

The alternative to the applicant's request is to conform to the rear setback regulations of Section 35-310.01 of the Unified Development Code

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

Staff recommends Approval in BOA-24-10300207 based on the following findings of fact:

1. The rear setback variance will leave sufficient room and will abide all remaining setback requirements.
2. The location of the existing historical structure and current lot dimensions limits expansion of property.