



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** January 6, 2025

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

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

**CASE NUMBER:** BOA-24-10300238

**APPLICANT:** Leonardo Espizoza

**OWNER:** Leonardo Espizoza

**COUNCIL DISTRICT IMPACTED:** District 5

**LOCATION:** 3022 El Paso Street

**LEGAL DESCRIPTION:** Lot 3, Block 3, NCB 6105

**ZONING:** "R-3 MLOD-2 MLR-2 AHOD" Single-Family Residential Lackland 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, limited to 5' in width.

Section 35-310.01

**Executive Summary**

The subject property is located along El Paso Street, north of Guadalupe Street. The home on the property has undergone renovations and repairs in the past years. In April 2021, the Board of Adjustment (BOA-21-10300019) approved a 10'-6" variance from the minimum 20' rear setback requirement to allow a new addition to be 9'-6" away from the rear property line as well as a 1'-10" variance from the minimum 5' side setback requirement to allow a structure to be 3'-2" from the side property line. Currently, the offending item in question is a water heater box protruding from the home inside the side setback, which is limited to 5-feet in width.

**Code Enforcement History**

2869930-BI-179586 – Building Investigation – Pending Resolution  
2869930-PI-179586 – Plumbing Investigation – Pending Resolution

**Permit History**

RES-ADD-PMT21-32501275 – Home Addition Permit  
MEP-ELE-PMT21-33332416 – Electrical General Permit

**Zoning History**

The property was part of the original 36 square miles of the City of San Antonio and zoned “C” Apartment District. The property was rezoned by Ordinance 75720 dated May 7, 1992, to “R-7” Small Lot Home District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “R-7” Small Lot Home District converted to “R-4” Residential Single-Family District. The property was rezoned by Ordinance 2023-08-03-0516 dated August 13, 2023, to “R-3” Single-Family District.

**Subject Property Zoning/Land Use**

**Existing Zoning**

“R-3 MLOD-2 MLR -2 AHOD” Single-Family Residential Lackland 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 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay  
Military Lighting Region 2 Airport Hazard Overlay District

**Existing Use**

Vacant

**South**

**Existing Zoning**

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

**Existing Use**

Single-Family Dwelling

**East**

**Existing Zoning**

“R-3 MLOD-2 MLR -2 AHOD” Single-Family Residential Lackland Military Lighting Overlay  
Military Lighting Region 2 Airport Hazard Overlay District

**Existing Use**

Single-Family Dwelling

## **West**

### **Existing Zoning**

“R-3 MLOD-2 MLR -2 AHOD” Single-Family Residential Lackland 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 in the Guadalupe/Westside Community Plan and is designated as “Low Density Residential” in the future land use component of the plan. The subject property is located within the notification area of Prospect Hill Neighborhood Association, and they have been notified of the request.

### **Street Classification**

El Paso Street is classified as a Local Road.

### **Criteria for Review – Side 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 adhering to setback requirements to provide adequate spacing between properties. The side setback variance is not contrary to the public interest as sufficient space will remain for the purposes of water runoff and fire safety concerns.

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

A literal enforcement of the side setback ordinances would result in unnecessary hardship as the applicant would need to eliminate existing home space to place the water heater inside the home.

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

The requested side setback variance does appear to be in the spirit of the ordinance as sufficient space will remain for the purposes of water runoff and fire safety concerns and is not out of character for the area in which the variances are located. The request is limited to the 5-foot width of the water heater.

*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 that the side setback variance would not substantially injure the appropriate use of adjacent properties as sufficient space will remain for maintenance of the addition and the minimal protrusion will not significantly impact water runoff or fire safety concerns.

*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 unique circumstances existing on the property for the side setback variance is the existing home location on the side setbacks and limited space for a water heater box.

**Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the side setback requirements of the UDC Section 35-310.01.

**Staff Recommendation – Side Setback Variance**

Staff recommends Approval in BOA-24-10300238 based on the following findings of fact:

1. The side setback encroachment is limited to the 5-foot width water heater box protruding from the side of the home.
2. The requested variance will not alter the essential characteristics of the district in which the property is located.