



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** May 19, 2005

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

**DEPARTMENT HEAD:** Michael Shannon, Director

**CASE NUMBER:** BOA-25-10300071

**APPLICANT:** Laura Deleon

**OWNER:** Alicia Mendez

**COUNCIL DISTRICT IMPACTED:** District 5

**LOCATION:** 307 South San Bernardo Avenue

**LEGAL DESCRIPTION:** Lot 33, Lot 34, and Lot 35, Block 23, NCB 8208

**ZONING:** "R-4 MLOD-2 MLR-2 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

**CASE MANAGER:** Jewel Polimis, Planner

**A request for**

A 1'-6" variance from the minimum 5' side setback to allow a 3'-6" side setback.  
Section 35-310.01

**Executive Summary**

Subject property is located west of South General McMullen and is situated on South San Bernardo Ave. The applicant, on behalf of the property owner, is requesting a 1'-6" side setback variance to redevelop a single-family residence in the current footprint. There is an existing 7' x 8.4' addition that will be removed, leaving a side setback of 3'-6". Two approved Certificate of Determination (COD) have been obtained, which permit development on a substandard lot. The applicant stated Lot 34 will be used as a driveway for Lot 35 and Lot 33 and is aware of the required Cross Access Agreement that must be attained. Permits are pending the outcome of the Board of Adjustment.

### **Code Enforcement History**

INV-BSB-INV22-2900000585 – Dangerous Premises Investigation

### **Permit History**

ADDR-COD-25-10600170 – Certificate of Determination

ADDR-COD-25-10600169 – Certificate of Determination

REP-MBR-APP23-35007667 – Minor Building Repair Permit

### **Zoning History**

Subject property was annexed into the City of San Antonio by Ordinance 1258, dated August 2, 1944, and zoned “C” Apartment District. The property was rezoned by Ordinance 72510, dated October 18, 1990, to “R-7” Small Lot Home District. With the adoption of the 2001 Unified Development Code (UDC), established by Ordinance 93881, on May 3, 2001, the subject property converted from “R-7” Small Lot Home District converted to the current “R-4” Residential Single-Family District.

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

#### **Existing Zoning**

“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland 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-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay  
Military Lighting Region 2 Airport Hazard Overlay District

#### **Existing Use**

Vacant land, Single-Family Residence

#### **South**

#### **Existing Zoning**

“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay  
Military Lighting Region 2 Airport Hazard Overlay District

#### **Existing Use**

Single-Family Residence

#### **East**

#### **Existing Zoning**

“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay  
Military Lighting Region 2 Airport Hazard Overlay District

#### **Existing Use**

Single-Family Residence, Duplex

#### **West**

### **Existing Zoning**

“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

### **Existing Use**

Single-Family Residence, Multi-Family Residence

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

The subject property is in the West & Southwest Sector Plan and is designated as “General Urban Tier” in the future land use component of the plan. The subject property is located within the notification area of Las Palmas Neighborhood Association, and they have been notified of the request.

### **Street Classification**

South San Bernardo Avenue 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 the setback requirements ensure safe distance from neighboring properties. Staff finds this request for a 1’-6” side setback variance is not contrary to public interest, as the applicant is abiding by all remaining development and setback requirements and will not infringe onto the neighboring property to the south, which is also owned by the property owner.

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

In this case, the special condition found on the subject property is the lot size. Without these variances, an unnecessary hardship will prevent the applicant from developing on the substandard lot.

*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. All remaining setback and building requirements, such as, building height, and density, will be followed. The spirit of the ordinance will be observed by granting this variance.

*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 lot will maintain a 3'-6" side setback, which will not injure the use of the adjacent conforming properties to the north. The adjacent property to the south is also owned by the property owner and will be used as a shared driveway. Upon site visit, staff has found that the requested variance will not alter the essential character of the district and setback regulations will insure adjacent properties remain uninjured.

*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, such as lot size and do not appear to be merely financial.

**Alternative to Applicant's Request**

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

**Staff Recommendation – Side Setback Variance**

Staff recommends Approval in BOA-25-10300071 based on the following findings of fact:

1. The request will not alter the essential character of the neighborhood.
2. The property will be abiding by all other dimension and setback requirements.