



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** November 18, 2024

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

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

**CASE NUMBER:** BOA-24-10300213

**APPLICANT:** Victor Salgado

**OWNER:** Victor Salgado

**COUNCIL DISTRICT IMPACTED:** District 5

**LOCATION:** 814 South San Eduardo Avenue

**LEGAL DESCRIPTION:** West 86.8 feet of Lot 7 and Lot 8, Block 8, NCB 8980

**ZONING:** “R-4 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District

**CASE MANAGER:** Colton Unden, Planner

**A request for**

1) A 16'-4" variance from the minimum 20' rear setback to allow a 3'-8" rear setback.  
Section 35-310.01

2) A 6" variance from the minimum 4'-6" side setback to allow a 4'-6" side setback.  
Section 35-310.01

**Executive Summary**

The subject property is located along South San Eduardo Avenue, west of South General McMullen Drive, located within the Las Palmas Neighborhood Association. The applicant constructed an addition to the home in the rear of their property without a permit. The addition is approximately 10 feet wide, and the structure is 4'-8" from the rear property line with 1' of overhang creating a current 3'-8" rear setback. Additionally, the addition has a side setback of 4'-

6". A building permit has not been applied for and would be pending outcome from the Board of Adjustment. Within the 200' area at 831 South San Eduardo Avenue the BOA previously approved in July 2023 a 1,725 square foot minimum lot size and 10' rear setback variance.

**Code Enforcement History**

No relevant code enforcement history.

**Permit History**

Building permit is pending outcome from the Board of Adjustment.

**Zoning History**

The subject property was annexed into the City of San Antonio by Ordinance 1258, dated August 2, 1944, and was originally zoned "B" Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned "B" Residence District converted to the current "R-4" Residential Single-Family District.

**Subject Property Zoning/Land Use**

**Existing Zoning**

"R-4 MLOD-2 MLR-1 AHOD" Residential Single-Family Lackland Military Lighting Overlay  
Military Lighting Region 1 Airport Hazard Overlay District

**Existing Use**

Single-Family Dwelling

**Surrounding Property Zoning/ Land Use**

**North**

**Existing Zoning**

"R-4 MLOD-2 MLR-1 AHOD" Residential Single-Family Lackland Military Lighting Overlay  
Military Lighting Region 1 Airport Hazard Overlay District

**Existing Use**

Single-Family Dwelling

**South**

**Existing Zoning**

"R-4 MLOD-2 MLR-1 AHOD" Residential Single-Family Lackland Military Lighting Overlay  
Military Lighting Region 1 Airport Hazard Overlay District

**Existing Use**

Single-Family Dwelling

**East**

**Existing Zoning**

"R-4 MLOD-2 MLR-1 AHOD" Residential Single-Family Lackland Military Lighting Overlay  
Military Lighting Region 1 Airport Hazard Overlay District

**Existing Use**

Single-Family Dwelling

**West**

**Existing Zoning**

“R-4 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay  
Military Lighting Region 1 Airport Hazard Overlay District

**Existing Use**

Single-Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the West/Southwest Sector Plan and is designated “General Urban Tier” in the future land use component of the plan. The subject property is located within the Las Palmas Neighborhood Association, and they were notified of the case.

**Street Classification**

South San Eduardo Avenue is classified as a local road.

**Criteria for Review – Side and Rear Setback Variances**

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 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.

The rear setback variance is contrary to the public interest as insufficient space will remain for the purposes of water runoff and fire safety concerns and a rear setback at this distance was not seen in the immediate area.

*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 relocate the structure a minimal 6 inches, resulting in negligible increased benefit to fire safety and water runoff.

A literal enforcement of the rear setback ordinances would not result in unnecessary hardship as the previously existing footprint provided sufficient space for a single-family dwelling unit.

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

The requested side setback variance appears to be in the spirit of the ordinance as sufficient space will remain for the purposes of water runoff and fire safety concerns and nonconforming side setbacks have been seen in the immediate area the property is located.

The requested rear setback variance does not appear to be in the spirit of the ordinance as insufficient space will remain for the purposes of water runoff and fire safety concerns.

*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 nonconforming setbacks have been seen in the immediate area.

Staff finds that the rear setback variance would substantially injure the appropriate use of adjacent properties as no rear setbacks were seen at the significantly reduced amount requested in the immediate area.

*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 negligible change to water runoff and fire safety and the presence of other nonconforming side setbacks in the area.

Staff finds no unique circumstances existing on the property for the rear setback variance as the original structure footprint provides sufficient space for a single-family dwelling.

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

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

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

Staff recommends Approval in BOA-24-10300213 based on the following findings of fact:

1. Sufficient space will remain for the purposes of water runoff and fire safety concerns.
2. The requested variance will not alter the essential characteristics of the district in which the property is located.

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

Staff recommends Denial in BOA-24-10300213 based on the following findings of fact:

1. Insufficient space will remain for the purposes of water runoff and fire safety concerns.
2. The requested variance will alter the essential characteristics of the district in which the property is located.