



# City of San Antonio

## Agenda Memorandum

---

**Agenda Date:** March 10, 2025

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

**DEPARTMENT HEAD:** Michael Shannon, Director

**CASE NUMBER:** BOA-25-10300019

**APPLICANT:** Ryan Sauter and Katherine Sauter

**OWNER:** Ryan Sauter and Katherine Sauter

**COUNCIL DISTRICT IMPACTED:** District 5

**LOCATION:** 115 Helena Street

**LEGAL DESCRIPTION:** South 110 feet of Lot 6, Block 0, NCB 2588

**ZONING:** “R-6 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

**CASE MANAGER:** Melanie Clark, Planner

**A request for**

A 2' variance from the minimum 5' side setback to allow an attached accessory dwelling to be 3' from the east side property line.

Section 35-310.01

**Executive Summary**

Subject property is located north of I-10/US-90, west of Probandt Street, approximately 155' east of the South Flores Street and Helena Street intersection. The applicant, being the property owner, is proposing an addition to the primary residential structure along the east side of the property. The applicant is seeking a 2' variance to allow an attached accessory dwelling to be 3' from the side setback. Applicant has indicated no overhang would go past the 3' side setback if approved. The abutting property appears to be inside the 5' side setback, however it was built while it was zoned

“C” Apartment District which required a 3’ side setback. Permits are pending the outcome of the Board of Adjustment.

**Code Enforcement History**

No Code Enforcement history found.

**Permit History**

REQ-BPPR-24-42800140 – Preliminary Plan Review

**Zoning History**

Subject property is a part of the original 36 square miles of the City of San Antonio and zoned “C” Apartment District. With the adoption of the 2001 Unified Development Code (UDC), established by Ordinance 93881, on May 3, 2001, the subject property converted from “C” Apartment District to “MF-33” Multi-Family District. The property was rezoned by Ordinance 2006-12-14-1441 dated, December 14, 2006, from “MF-33” Multi-Family District to “R-6” Residential Single-Family District.

**Subject Property Zoning/Land Use**

**Existing Zoning**

“R-6 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**

“MF-33 MLOD-2 MLR-2 AHOD” Multi-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

**Existing Use**

Vacant Lot

**South**

**Existing Zoning**

“R-6 CD MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District with Conditional Use for a Duplex

**Existing Use**

Single-Family Residence

**East**

**Existing Zoning**

“R-6 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

**West**

**Existing Zoning**

“R-6 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay  
Military Lighting Region 2 Airport Hazard Overlay District

**Existing Use**

Commercial/Industrial Lot Driveway

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Downtown Area Regional Center 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 Lone Star Neighborhood Association and the Collins Garden Neighborhood Association, and they have been notified of the request.

**Street Classification**

Helena 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 minimum side setback requirements, as they ensure the expansion of the primary structure is positioned a safe and suitable distance from property lines. Staff finds a 3’ side setback is contrary to the public interest. The distance will create a safety issue of increased risk of fire spread and water runoff for the abutting property.

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

Staff has found no special condition that would result in an unnecessary hardship. While there is limited room for an accessory structure along the side setback as proposed, the lot configuration provides room for expansion in the rear of the property for an attached or detached accessory structure to meet setback requirements.

*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. The intent of the 5’ side setback is intended to leave sufficient space between structure and abutting property. The requested variance leaves significantly limited space between structure and property line.

*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 addition will maintain a 3' side setback, which would alter the essential character of the district and enhance the risk of fire spread and water runoff for the residential home abutting the subject property. The abutting dwelling structure appears to have been built closer to the current 5' required setback.

*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 not due to unique circumstances existing on the property. The proposed addition needs to adhere to the Unified Development Code building standards to ensure the safety of neighboring properties.

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

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

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

Staff recommends Denial in BOA-25-10300019 based on the following findings of fact:

1. There is sufficient space on the lot to reconfigure placement of an attached accessory dwelling to meet setback requirements.
2. Will injure the use of adjacent conforming properties and increases the chances of fire spread and water runoff between properties/structures.