



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** January 6, 2024

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

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

**CASE NUMBER:** BOA-24-10300219

**APPLICANT:** Jose Gallegos

**OWNER:** Alejandro Jesus Aguirre

**COUNCIL DISTRICT IMPACTED:** District 1

**LOCATION:** 1011 Weizmann Street

**LEGAL DESCRIPTION:** Lot 15, Block 1, NCB 10950

**ZONING:** "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District

**CASE MANAGER:** Colton Unden, Planner

**A request for**

1) A 4'-1" variance from the minimum 5' side setback to allow a 11" side setback.  
Section 35-310.01

2) A 9'-6" variance from the minimum 12'-6" rear setback to allow a 3' rear setback.  
Section 35-310.01

**Executive Summary**

The subject property is located along Weizmann Street, east of West Avenue, located within the North Central Neighborhood Association. The property owner had additions constructed to the home without permit in violation of setbacks sometime after August 2022 per street photography. Upon code enforcement order, the property owner or contractor went to get permits. Upon review, the applicant turned in a site plan with setbacks of 3' rear and 1' side. Scope of work within the application stated setbacks must comply with Unified Development Code standards, however the

setbacks indicated on the site plan was missed by Development Services Staff in February of 2023. Per the survey, a 15-foot alley exists in the rear of the property which reduces the rear from back from 20-feet of 12-feet 6-inches.

### **Code Enforcement History**

INV-PBP-23-3100000797 - PMT-Building Without A Permit – Closed  
INV-PBP-23-3100000816 - PMT-Building Without A Permit – Closed  
INV-PBP-23-3100000815 - PMT-Building Without A Permit – Closed  
23176662 - PMT-Building Without A Permit – Closed  
23225959 - PMT-Building Without A Permit – Closed

### **Permit History**

RES-ADD-PMT23-32500309 – Home Addition Permit  
RES-COV-PMT23-32300309 – Covered Patio or Porch Permit  
MEP-PLM-PMT23-34305768 – Plumbing General Permit  
MEP-ELE-PMT23-33332279 – Electrical General Permit  
MEP-GAS-PMT24-34207957 – Plumbing Gas Permit

### **Zoning History**

The subject property was annexed into the City of San Antonio by Ordinance 18115 dated September 24, 1952, was zoned “B” Residence District. Upon adoption of the 2001 Unified Development Code, the zoning converted from “B” Residence District to the current “R-4” Residential Single-Family District, established by Ordinance 93881, dated May 3, 2001.

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

#### **Existing Zoning**

"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District

#### **Existing Use**

Single-Family Dwelling

### **Surrounding Property Zoning/ Land Use**

#### **North**

#### **Existing Zoning**

“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District

#### **Existing Use**

Single-Family Dwelling

#### **South**

#### **Existing Zoning**

"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District

#### **Existing Use**

Single-Family Dwelling

#### **East**

#### **Existing Zoning**

"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District

**Existing Use**

Single-Family Dwelling

**West****Existing Zoning**

"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District

**Existing Use**

Single-Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Greater Dellview Area Community Plan and is designated "Low Density Residential" in the future land use component of the plan. The subject property is located within the North Central Neighborhood Association and the San Antonio Texas District One Resident Association, and they were notified of the case.

**Street Classification**

Weizmann Street 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 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 and rear setback variances are contrary to the public interest as insufficient space will remain for the purposes of water runoff and fire safety concerns and maintenance.

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

A literal enforcement of the side and rear setback ordinances would not result in unnecessary hardship as the applicant can reduce the recent addition.

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

The requested side and rear setback variances do 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 as well as for the maintenance of the structure.

*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 and rear setback variances would substantially injure the appropriate use of adjacent properties as insufficient space will remain for maintenance of the addition and the increased risk of fire spreading would be aggravated.

*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 no unique circumstances existing on the property for the side and rear setback variances as home and lot prior to the additions were adequate, consistent, and maintainable within the neighborhood and district.

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

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

#### **Staff Recommendation – Side and Rear Setback Variances**

Staff recommends Denial in BOA-24-10300219 based on the following findings of fact:

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