



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** October 7, 2024

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

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

**CASE NUMBER:** BOA-24-10300132

**APPLICANT:** Mario Nichols

**OWNER:** Mario Nichols

**COUNCIL DISTRICT IMPACTED:** District 5

**LOCATION:** 1317 Dahlgreen Avenue

**LEGAL DESCRIPTION:** Lot 54, Block 5, NCB 8539

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

**CASE MANAGER:** Melanie Clark, Planner

**A request for**

A 2'-6" variance from the minimum 5' side setback to allow 2'-6" side setbacks on the northern and southern property lines.

Section 35-310.01 (Table 310-1)

**Executive Summary**

The subject property is located west of South General McMullen Drive, north of Castroville Road, 145 feet north of Akron Avenue, on Dahlgreen Avenue. The applicant, also the property owner, is proposing development of a single-family dwelling on a vacant lot with a reduced setback. Due to the limited size of the lot, the applicant is requesting a 2'-6" side setback variance to allow the structure to be 2'-6" from the east and west side property lines. Submittal of permits pending the results of the Board of Adjustment. The property qualifies as a Nonconforming Lot of Record

which allows them to develop on a substandard lot that does not meet the minimum lot size or width.

**Code Enforcement History**

No Code Enforcement history found.

**Permit History**

The applicant has not yet applied for the building permit.

**Zoning History**

The 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, from “C” Apartment District to “R-7” Small Lot Home Residence District. With the adoption of the 2001 Unified Development Code, established by Ordinance 93881, on May 3, 2001, the zoning converted to “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**

Vacant Land

**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 Residence

**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 Residence

**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 Residence

**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 Residence

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the West/Westside 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 Los Jardines Neighborhood Association, and they have been notified of the request.

**Street Classification**

Dahlgreen 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 minimum lot sizes to prevent development crowding on smaller lots. Staff finds that the reduced side setbacks of 2’-6” are contrary to public interest as they do not provide an adequate distance between neighboring properties, enhancing the risk of water runoff and fire spread.

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

A literal enforcement of the ordinance would not result in an unnecessary hardship as the developer can redraw plans that incorporate the minimum 5’ setbacks for the proposed structure.

*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. Staff finds that the side setback variances will not observe the spirit of the ordinance as this would significantly reduce the distance between property lines and injure neighboring properties.

*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, staff finds the reduced side setbacks will injure the use of adjacent conforming properties and alter the essential character of the district.

*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 variances are sought are not due to unique circumstances existing on the property. Although the development may be limited due to lot size, the proposed dwelling needs to adhere to the Unified Development Code building standards to ensure the privacy and safety of neighboring properties.

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

The alternative to the applicant's request is to conform to setback requirements of the UDC Section 35-310.01 (Table 310-1).

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

Staff recommends Denial in BOA-24-10300132 based on the following findings of fact:

1. The reduced side setbacks do not provide an adequate distance between neighboring properties, enhancing the risk of water runoff and fire spread.
2. Will injure the use of adjacent conforming properties and alter the essential character of the district.