

Case Number:	BOA-23-10300318
Applicant:	Francisco Lopez
Owner:	Francisco Lopez
Council District:	4
Location:	2927 McArthur Avenue
Legal Description:	The west 80 feet of south 54.2 feet of Lot 4, Block 1, NCB 11256
Zoning:	“RM-4 MLOD-2 MLR-1 AHOD” Residential Mixed Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District
Case Manager:	Bronte Frere, Planner

Request

A request for 1) a 2’ variance from the minimum 10’ front setback, as described in Section 35-310.01, to allow a structure/accessory structure with an 8” overhang to be 8’ from the front property line, 2) a 9’-11” variance from the minimum 10’ rear setback, as described in Section 35-310.01/35-370, to allow a structure/accessory structure with a 1’-2” overhang to be 1” from the rear property line, 3) an 8’ variance from the minimum 15’ clear vision requirement, as described in Section 35-514(a)(2), to allow a fence to be 7’ from the front driveway, 4) a request for a variance from the fence materials, as described in Section 35-514, to allow for a corrugated metal fence in the rear yard, and 5) a variance to allow an accessory structure, as described in Section 35-370(b)(6), in the front yard.

Executive Summary

The subject property is located on McArthur Avenue in a neighborhood west of Somerset Road and south of SW Military Drive. The current accessory structure does not meet the front, rear, and clear vision requirements, the fence in the rear yard is not constructed from approved fencing materials, and the accessory structure is in the front of the property. Upon site visits, staff did not observe any accessory structures located in front of the primary structure on surrounding residential properties. Staff also observed fences constructed of approved fence materials on surrounding properties.

Code Enforcement History

CWO-INV-CWO-23-26100978 – Code Work Order – Vacant-Overgrown Property – Under Review – May 2023

INV-PBP-23-3100004027 – PMT-Building Without A Permit – Closed – November 2023

INV-PBP-23-3100003992 – PMT-Building Without A Permit – Pending Resolution – November 2023

Permit History

REP-MBR-APP23-35012613 – Minor Building Repair Application – Issued – November 2023

REP-RRP-PMT-23-35304538 – Residential Repair Permit – Active – November 2023

Zoning History

The subject property was annexed into the City of San Antonio by Ordinance 18115, dated September 24, 1952, and zoned “B” Residence District. The property was rezoned by Ordinance 93308, dated January 25, 2001, to “R-2” Two-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “R-2” Two-Family Residence converted to the current “RM-4” Residential Mixed District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“RM-4 MLOD-2 MLR-1 AHOD” Residential Mixed Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“C-2 MLOD-2 MLR-1 AHOD” Commercial Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Convenience Store
South	“RM-4 MLOD-2 MLR-1 AHOD” Residential Mixed Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Dwellings
East	“C-2 MLOD-2 MLR-1 AHOD” Commercial Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Dwelling and Vacant Land
West	“RM-4 MLOD-2 MLR-1 AHOD” Residential Mixed Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Dwellings

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the West/Southwest Sector Plan as is designated as “Suburban Tier” in the future land use component of the plan. The subject property is not located within the boundaries of a Neighborhood Association.

Street Classification

McArthur Avenue is classified as a local road.

Criteria for Review – Side, Rear, Clear Vision, Fence Materials, and Accessory Structure Placement 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 minimum front and rear setback requirements between accessory structures and property lines, along with minimum clear vision requirements and guidelines for the placement of an accessory structure on residential property. Staff finds the reduced front and rear setback does not leave suitable distance from the property

line. Additionally, the reduced clear vision variance does not leave adequate space for oncoming traffic. The accessory structure is located in the front of the property which is contrary to the UDC requirement for accessory structures to be located in the side or rear yard. The public interest is also represented by fence material requirements, and the corrugated metal fence on the rear property line is not constructed of approved fence materials.

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

Staff has found no special conditional that literal enforcement of the ordinance would cause an unnecessary hardship for the reduced side and rear setbacks, as the accessory structure is already in the front of the property. Furthermore, the placement of the front yard fence encroaches into the clear vision requirements for the property. Approved materials are outlined in the Unified Development Code.

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

The spirit of the ordinance will not be observed with the front and rear setbacks, as they do not allow sufficient room from the property lines and would allow an accessory structure that is not within the side or rear area of the residential property. The reduced clear vision would not be in the interest of the safety of oncoming traffic, and corrugated metal is prohibited for constructing fences.

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 front and rear setbacks, along with the placement of an accessory structure in the front of the property, will substantially injure the appropriate use of adjacent conforming property as they would not leave sufficient room from the property lines and is not characteristic of the surrounding area. A clear vision reduction would not aid in the safety of oncoming traffic. The use of corrugated metal fencing is not uniform with the surrounding properties, as other fences were observed constructed of approved fence materials.

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, as accessory structures are permitted within the side or rear yard area of a residential district, and permitted fence materials are outlined in the Unified Development Code.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Front and Rear Setback Regulations in Section 35-310.01/35-370, Clear Vision Regulations in Section 35-514(a)(2), Fence Material Regulations in Section 35-514, and Accessory Structure Placement Regulations in Section 35-370(b)(6).

Staff Recommendation – Front Setback, Rear Setback, Clear Vision Requirements, Fence Material, and Accessory Structure Location Variances

Staff recommends Denial in BOA-23-10300318 based on the following findings of fact:

1. The accessory structure will not observe the spirit of the ordinance as the structure is in front of the principal structure,
2. The front yard fence encroaches into the minimum clear vision space required for the property, and
3. The rear fence is not constructed of approved fence materials.