



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** May 20, 2024

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

**DEPARTMENT HEAD:** Michael Shannon

**CASE NUMBER:** BOA-24-10300081

**APPLICANT:** Victor Flores

**OWNER:** Victor Flores

**COUNCIL DISTRICT IMPACTED:** District 5

**LOCATION:** 1518 Calle Valencia

**LEGAL DESCRIPTION:** Lot 28 and Lot 29, Block 5, NCB 8986

**ZONING:** "R-4 CD MLOD-2 MLR-1 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District with a Conditional Use for Two (2) Dwelling Units

**CASE MANAGER:** Colton Unden, Planner

**A request for**

A variance to allow an accessory dwelling in the front yard.  
Section 35-371(b)(1)

**Executive Summary**

The subject property is located along Calle Valencia, north of Castroville Road, and west of South General McMullen Drive. The applicant is requesting for a detached accessory dwelling to be in the front yard. The Unified Development Code requires detached accessory dwellings to be in the rear yard. The property recently was rezoned for two units, however the property owner is planning on developing the property as one unit with one accessory dwelling in the front. The proposed accessory dwelling was constructed without permits. Separate utilities are required for separate units, however, not required if the structure is an accessory dwelling.

### **Code Enforcement History**

No relevant code enforcement history for the subject property.

### **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 originally zoned “C” Apartment District. The property was rezoned by Ordinance 72510, dated October 18, 1990, to “R-7” Small Lot Home District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “R-7” Small Lot Home District converted to the “R-4” Residential Single-Family District. The property was rezoned by Ordinance 2023-12-07-0940, dated December 7, 2023, to the current “R-4 CD” Residential Single-Family District with a Conditional Use for two (2) dwelling units.

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

#### **Existing Zoning**

“R-4 CD MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District with a Conditional Use for Two (2) Dwelling Units

#### **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**

“C-2NA CD MLOD-2 MLR-1 AHOD” Commercial, Nonalcoholic Sales Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District with a Conditional Use for a Wrecker Service

#### **Existing Use**

Wrecker Service

## **West**

### **Existing Zoning**

“R-4 CD MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District with a Conditional Use for a 6-Unit Apartment.

### **Existing Use**

Multi-Family Dwelling

### **Comprehensive Plan Consistency/Neighborhood Association**

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

### **Street Classification**

Calle Valencia is classified as a local road.

### **Criteria for Review – Accessory Dwelling Unit Front Yard 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 required location of an accessory dwelling location in the rear yard. This is contrary to the public interest as an accessory structure will become the forward structure in a residential lot which will impact the public interest.

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

A literal enforcement of the ordinance would result in the applicant having to reconstruct the accessory dwelling in the rear yard or attached to the principal 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. The accessory structure will be located in the front yard which would cause a drastic change what the ordinance intended.

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, an accessory dwelling forward of the principal structure will 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 variance is sought is not due to unique circumstances existing on the property as the accessory dwelling could be constructed in the rear or attached to the principal structure.

**Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the Accessory Dwelling Unit Regulations of Section 35-371(b)(1) of the Unified Development Code.

**Staff Recommendation – Accessory Dwelling Unit Front Yard Variance**

Staff recommends Denial in BOA-24-10300081 based on the following findings of fact:

1. No properties in the immediate neighborhood have an Accessory Dwelling Unit in the front yard; and,
2. The variance would alter the essential character of the district.