

Case Number:	BOA-22-10300038
Applicant:	Francisco Javier Morales
Owner:	JSA Homes LLC
Council District:	5
Location:	615 West Baylor
Legal Description:	Lot 18, 20, 22 & 24, Block 5, NCB 3900
Zoning:	“R-5 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Overlay Military Lighting Region 2 Airport Hazard Overlay District
Case Manager:	Richard Bautista-Vazquez, Planner

### **Request**

A request for a 10’ variance from the minimum 20’ rear setback requirement, as described in Section 35-310, to allow a structure to be 10’ from the rear property line.

### **Executive Summary**

The applicant is proposing to construct a dwelling that encroaches 10’ into the required minimum rear setback. The lot is currently vacant, and the applicant is proposing to construct a single-family dwelling. The vacant lot abuts residential homes to the rear.

### **Code Enforcement History**

There is no Code Enforcement History on file.

### **Permit History**

No permits have been issued. Building permits are pending the outcome of the BOA Meeting.

### **Zoning History**

The subject property was located within the Original City Limits of San Antonio and was zoned “B” Residence District. Ordinance 76368, dated August 27, 1992, rezoned the property to “R-5” Single Family Residence District. Upon adoption of the 2001 Unified Development Code, the zoning converted from “R-5” Single Family Residence District to the current “R-5” Residential Single-Family District, established by Ordinance 93881, dated May 3, 2001.

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

Existing Zoning	Existing Use
“R-5 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Overlay Military Lighting Region 2 Airport Hazard Overlay District	Vacant Lot

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

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“R-5 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwellings
South	“R-5 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwellings
East	“R-5 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Overlay Military Lighting Region 2 Airport Hazard Overlay District	Vacant Lot
West	“R-5 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Overlay Military Lighting Region 2 Airport Hazard Overlay District and “C-3R MLOD-2 MLR-2 AHOD” General Commercial Lackland Military Overlay Military Lighting Region 2 Airport Hazard Overlay District	Vacant Lot, Car Wash, Car Lot

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

The subject property is in the Nogalitos/South Zarzamora Community Plan and is designated “Mixed Use” in the future land use component of the plan. The subject property is located within the Collins Garden Neighborhood Association and were notified of the case.

### **Street Classification**

West Baylor is classified as a local road.

### **Criteria for Review - 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. The applicant is requesting a 10’ variance from the minimum 20’ rear setback requirement. The lot is currently vacant and the proposed structure would be 10 feet from the rear property line. There do not appear to be many other properties with reduced rear setbacks.

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

The lot is currently vacant. The proposed development has enough space to meet the minimum setback requirements. A literal enforcement of the ordinance does not appear to result in unnecessary hardship.

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. A 10' variance from the minimum 20' rear setback requirement to allow a structure 10' from the rear property line for a proposed dwelling will not observe the spirit of the ordinance as there is sufficient space to meet the minimum setback requirements.

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 the request for a 10' variance is not needed due to there being room to meet the minimum setback requirements.

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 does not find the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property.

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

The alternative to the applicant's request is to conform to the Setbacks per 35-310 in the UDC Code.

### **Staff Recommendation – Rear Setback Variance**

Staff recommends Denial in BOA-22-10300038 based on the following findings of fact:

1. The lot is currently vacant and the proposed dwelling will be new construction; and
2. There do not appear to be any unique circumstances existing on the property.