

Case Number:	BOA-22-10300141
Applicant:	Luis Lopez
Owner:	James Daughety T JR
Council District:	4
Location:	2154 Steves Avenue
Legal Description:	Lot 14, Block 3, NCB 6869
Zoning:	“R-4 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Case Manager:	Vincent Trevino, Senior Planner

### **Request**

A request for a 2'-2" variance from the 5'-0" minimum side setback requirement, as described in Section 35-370(b)(1), to allow an existing detached structure to be 2'-10" from the side property line.

### **Executive Summary**

The subject property is located on Steves Avenue and contains a single-family residence. The applicant is remodeling an existing detached structure. The main post for the structure had to be replaced due to deterioration. Thus, the requirement to meet the minimum side setback from the property line. Upon site visit, staff observed other detached structures in the area.

### **Code Enforcement History**

There are no relevant code compliance cases for the subject property.

### **Permit History**

A variety of building permits were pulled for the subject property.

### **Zoning History**

The subject property was located within the original 36 square miles of the City of San Antonio and zoned “B” Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “B” Residence District converted to the current “R-4” Residential Single-Family District.

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

Existing Zoning	Existing Use
“R-4 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence

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

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“R-4 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
South	“R-5 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
East	“R-4 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
West	“R-4 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence

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

The subject property is located in the Highlands Community Plan and is designated “Low Density Residential” in the future land use component of the plan. The subject property is located within the Highland Park Neighborhood Association, and were notified of this request.

### **Street Classification**

Steves Avenue is classified as a Minor Secondary Arterial B.

### **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. The applicant has requested a variance to allow an existing detached structure to be 2'-10” from the side property line.**

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 existing detached structure being moved to maintain a 5' side setback. This would result in an 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 2'-2" variance from the 5' minimum side setback requirement will observe the spirit of the ordinance and will not adversely affect surrounding properties in the immediate area.**

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 structure will maintain a 2'-10" setback from the side property line, respectively. This will not alter the essential character of the district as there are similar accessory structures in the area with similar setbacks.**

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 due to unique circumstances existing on the property. The existing structure will be required to meet the minimum side setback requirements, if the requirements cannot be met, the existing structure will be required to be moved.**

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

The alternative to the applicant's request is to conform to the setback requirements listed in Section 35-370(b)(1).

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

Staff recommends **Approval** in **BOA-22-10300141** based on the following findings of fact:

1. A side setback of 2'-10" would provide enough spacing between others structures and structure on the subject property; and
2. The main post for the structure had to be replaced due to deterioration.
3. Other structures were observed in the immediate area therefore the request does not appear to alter the essential character of the neighborhood.