

Case Number:	BOA-22-10300184
Applicant:	Michael Taylor, Habitat for Humanity of San Antonio
Owner:	Felipe Rodriguez
Council District:	5
Location:	1712 San Patricio Street
Legal Description:	Lot 30 and Lot 31, Block 8, NCB 2890
Zoning:	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Case Manager:	Vincent Trevino, Senior Planner

**Request**

A request for a 11’ variance from the minimum 20’ rear setback requirement, as described in Sec. 35-310.01, to allow a single-family residence to be 9’ from the rear property line.

**Executive Summary**

The subject property is located in the near west side of San Antonio west of South Zarzamora Street. The lot is currently vacant and has been vacant for some time. The applicant is requesting an 11’ variance from the minimum 20’ rear setback requirement is being requested to allow the proposed single-family residence to maintain 9’ from the rear property line. All other setback requirements will be met. A preliminary review for a plat exception was completed with a possible approval, however, the plat exception has not been granted.

**Code Enforcement History**

There are no code violations for this property.

**Permit History**

There are no permits on file for the subject property. The issuance of the permit is pending the outcome of the Board of Adjustment hearing due to a hold on the zoning and building reviews.

**Zoning History**

The subject property was located within the original 36 square miles of the City of San Antonio and zoned “C” Apartment District. The property was rezoned by Ordinance 75720, dated May 7, 1992, 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 current “R-4” Residential Single-Family District.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
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North	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
South	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
East	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
West	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Guadalupe/Westside Community Plan and is designated “Low Density Residential” in the future land use component of the plan. The subject property is located within the El Charro Neighborhood Association and were notified of the case.

**Street Classification**

San Patricio as a local road.

**Criteria for Review – Minimum Lot Size and Rear Setback 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 variance request is to allow a single-family residence to maintain a 11’ to the rear property line. The variance request does not appear to be contrary to the public interest, as granting the variances would allow the development of a single-family residence**

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 inability to develop a single-family residence on the lot. Staff finds an unnecessary hardship as the property was platted in 1924 in its current configuration and due to the shape of the lot, preventing the structure to meet the rear setback requirement.**

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. All setbacks aside from the rear setback requirement will be met, therefore the request appears to observe the spirit of the ordinance.**

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 does not find evidence that the requested variance would alter the essential character of the district. The property is part of the original 36 square miles of the City of San Antonio where smaller lots are commonly found. Surrounding properties do not maintain the square footage requirement either, therefore injury to adjacent properties is unlikely.**

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. Due to the current configuration of the lot, it cannot maintain the minimum lot size requirement. In addition, a setback reduction to the rear would help accommodate a reasonable sized residence on the lot. The request does not appear merely financial.**

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

The alternative to the applicant's request is to conform to the minimum lot size and setback requirements per 35-310.01 of the Unified Developed Code.

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

Staff recommends **Approval** in **BOA-22-10300184** based on the following findings of fact:

1. The lot is currently vacant, and the proposed dwelling will be new construction; and
2. The small size and configuration of the lot present hardships to new construction with the UDC setback requirements in place; and
3. The variance requests do not appear to alter the essential character of the district.