

Case Number:	BOA-22-10300181
Applicant:	L&G Contracting
Owner:	Liles Tyrone Wilson
Council District:	2
Location:	516 Potomac Street
Legal Description:	Lot 8 and Lot 9, NCB 6205
Zoning:	“R-4 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Case Manager:	Joseph Leos, Planner

### **Request**

A request for 1) a 1’-11” variance from the minimum 20’ rear setback requirement, as described in Section 35-310.01, to allow an addition to be 13’-1” (with 5’ setback reduction from alley) from the rear property line, and 2) a 2’-11” variance from the minimum 5’ side setback requirement, as described in Section 35-310.01, to allow an addition with overhang to be 2’-1” from the side property line.

### **Executive Summary**

The subject property is located along Potomac Street near the intersection of North New Braunfels Avenue and East Houston Street. The applicant constructed an addition to an existing residence in the rear and side yard without pulling building permits. According to Section 35-516(b), additions that are in line with an existing residence having a side yard of three or more feet may be maintained; however, because the proposed distance is less than the minimum three (3) feet, it will have to abide by the 5’ minimum side setback requirement. Additionally, additions are required to maintain a minimum distance of 20’ from the rear property line.

### **Code Enforcement History**

Overgrown Yard Investigation- October 2022

Overgrown Yard Investigation- August 2021

### **Permit History**

Home Addition Permit- June 2022

Deck Permit- June 2022

Residential Improvements Permit- June 2022

Mechanical Permit -June 2022

MEP Trade Permit- June 2022

Electrical General Permit- June 2022

Plumbing General Permit- June 2022

Minor Building Repair Permit- April 2022

Re-Roof Permit- April 2022

Residential Repair Permit- April 2022

Foundation Repair Permit- March 2022

A Building Permit is pending the outcome of the Board of Adjustment hearing.

### **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 under Ordinance 70785, dated December 14, 1989, from “C” Apartment District 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-3 MLR-2 AHOD” Residential Single-Family Martindale Army Airfield 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
North	“R-4 S HS MLOD-3 MLR-2 AHOD” Residential Single-Family Historic Significance Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District with a Specific Use Authorization for a Cemetery.	Cemetery
South	“R-4 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Vacant Residential
East	“R-4 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Airfield 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 Airfield 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 Dignowity Hill Neighborhood Plan / Eastside Reinvestment Plan and is designated “Low Density Residential” in the future land use component of the plan. The subject property is located within the boundary of Dignowity Hill Neighborhood Association, and they have been notified of the request.

**Street Classification**

Potomac Street is classified as a local road.

**Criteria for Review – Rear and 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 is requesting a variance to the side and rear setback to allow an addition to be 18'-1" and 2'-1" from the rear and side property lines. There is still adequate spacing between the addition and rear and side property lines, which does not appear to be contrary to 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 moving the addition twenty and five feet from the rear and side property lines, as the width of the lot is fifty-three feet, prohibiting the addition to be adequately constructed in the side. Additionally, the placement of the existing residence is sixty-six feet from the front property line, which would prevent the construction of a sizeable addition in the rear.**

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 addition is currently 18'-1" and 2'-1" from the rear and side property lines, which does observe the spirit of the ordinance by providing adequate spacing between neighboring properties.**

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 that the requested variances will not alter the essential character of the district. Upon site visits, staff observed that small lots were found in the immediate area, including the adjacent property. A request for a 18'-1" and 2'-1" rear and side setback variance request will not injure adjacent conforming properties.**

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 circumstances do not appear to be merely financial.**

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

The alternative to the applicant's request is to conform to the setback requirements of the UDC Section 35-310.01.

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

Staff recommends **Approval** in **BOA-22-10300181** based on the following findings of fact:

1. The addition is currently 18'-1" and 2'-1" from the rear and side property lines; and
2. The size of the lot is small which prohibits the addition to be adequately constructed to the side; and
3. The placement of the existing residence is sixty-six feet from the front property line, which would prevent the construction of a sizeable addition in the rear.