

Case Number:	BOA-22-10300246
Applicant:	Jonathan Duque
Owner:	Jonathon Duque
Council District:	5
Location:	330 Walton Avenue
Legal Description:	The north 117.5 feet of Lot 7, Block 5, NCB 3410
Zoning:	“R-5 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 4’ variance from the minimum 5’ side property setback, as described in Section 35-310.01, to allow a structure with overhang and gutters to be 1’ from the side property line.

Executive Summary

The subject property is located on Walton Avenue and is currently an existing single-family residence. The existing residence is being remodeled and upgraded. The existing footprint of the residence will keep the same setback distance of 1’ from the side property line as there was no addition to the existing foundation, only repairs. Upon site visit, Staff observed other structures with the same side setback distance.

Code Enforcement History

INV-BLD-INV22-23200762 for work without permits.

Permit History

There are several Building, Minor Repair and Trade permits on file.

Zoning History

The subject property was located within the original 36 square miles of the City of San Antonio and zoned “B” Residence District. The property was rezoned by Ordinance 76368, dated August 27, 1992 to “R-5” Single-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property converted to the current “R-5” Residential Single-Family District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-5 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-5 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-5 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-5 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-5 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 Nogalitos/South Zarzamora Plan and is designated as “Low Density Residential” the future land use component of the plan. The subject property is located within the Palm Heights Neighborhood Association, and they were notified of the case.

Street Classification

Walton Avenue is classified as local road.

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 applicant is requesting a 4’ variance from the minimum 5’ side setback requirement to allow a structure with overhang and gutters to be 1’ from the side property line, 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.*

Staff finds an unnecessary hardship due to this being an existing structure. The existing residence is being remodeled and upgraded. The remodel work does not include any additions to the structure.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

The requested variance is to allow a structure to be closer to the side property line. Due to the configuration of the property and the structure being existing, this will 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. Additional properties located along Walton Avenue were observed to have structures within the side setback due to the size of the lots, therefore the request would not alter the essential character of the neighborhood.

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.*

The variance is sought is due to unique circumstances for the existing structure on the property. The variance request is not 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 – Side Setback Variance

Staff recommends **Approval** in **BOA-22-10300246** based on the following findings of fact:

1. The request does not appear out of character for the area as there are similar structures in the surrounding area; and
2. Gutters will mitigate any water runoff onto the abutting property; and
3. There are other structures in the area with the same setback distance from the side property line.