

Case Number:	BOA-22-10300235
Applicant:	Eluterio Tenorio
Owner:	Martin & Alejandra Vazquez
Council District:	3
Location:	3106 Commercial Avenue
Legal Description:	South 90 feet of Lot 20, Block 331, NCB 9426
Zoning:	“C-2NA MLOD-2 MLR-2 AHOD” Commercial Nonalcoholic Sales Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Case Manager:	Joseph Leos, Planner

Request

A request for 1) a 22’-6” variance from the required 30’ minimum rear setback requirement, as described in Section 35-310.01, to allow a structure to be 7’-6” from the rear property line, 2) a 15’ variance from the required 15’ minimum rear buffer yard requirement, as described in Section 35-510, to allow the elimination of the rear buffer yard, and 3) a 4’ variance from the required 10’ minimum front buffer yard requirement, as described in Section 35-510, to allow a buffer yard to be 6’ on a Secondary Arterial Type B.

Executive Summary

The subject property is located along Commercial Avenue near West Hutchins Place. The applicant is proposing to construct a structure within the existing building footprint. It was prompted during the permit process that the applicant would need to obtain a variance for the rear setback and rear and front buffer yard. The proposed rear setback is 7’-6” from the rear property line, elimination of the rear buffer yard, and to have a 6’ front buffer yard. Structures located within the “C-2NA” base zoning district are required to maintain a minimum of 30’ to the rear when abutting a residential use or residential zoning district. Additionally, structures are required to have a minimum 15’ buffer yard if the abutting base zoning district is residential and 10’ if the abutting arterial is a Secondary Arterial Type B.

Code Enforcement History

There is no relevant code enforcement history for the subject property.

Permit History

The issuance of a building permit is pending the outcome of the Board of Adjustment.

Demolition Permit- September 2021

Minor Commercial Repair Permit- June 2021

Zoning History

The subject property was annexed into the City of San Antonio by Ordinance 4745, dated March 7, 1947, and originally zoned “F” Local Retail District. The property rezoned under Ordinance 66677, dated February 25, 1988 from “F” Local Retail District to “B-2NA” Business, Non-Alcoholic Sales District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “B-2NA” Business, Non-Alcoholic Sales District converted to the current “C-2NA” Commercial Nonalcoholic Sales District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“C-2NA MLOD-2 MLR-2 AHOD” Commercial Nonalcoholic Sales Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Vacant Commercial

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“C-2NA MLOD-2 MLR-2 AHOD” Commercial Nonalcoholic Sales Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Salon
South	“C-2NA MLOD-2 MLR-2 AHOD” Commercial Nonalcoholic Sales Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Bar
East	“R-6 MLOD-2 MLR-2 AHOD” Commercial Nonalcoholic Sales Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
West	“C-2 MLOD-2 MLR-2 AHOD” Commercial Nonalcoholic Sales Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	VFW Post

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the West/Southwest Sector Plan and is designated “General Urban Tier” in the future land use component of the plan. The subject property is located within the boundary of the Harlandale-McCollum Neighborhood Association, and they have been notified of the request.

Street Classification

Commercial Avenue is classified as a Secondary Arterial Type B.

Criteria for Review – Rear Setback and Bufferyard 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 rear setback to allow a structure to be 7’-6” from the rear property line. Staff finds that this a suitable amount of spacing, as the structure is abiding by the front and side setback requirements. Additionally, the applicant is requesting a 15’ variance to allow the elimination of the rear buffer yard and a 4’ variance to allow a 6’ buffer yard in the front yard, which is not contrary to the public interest as it is in the rear yard and cannot be seen from any street right-of-way. Furthermore, the

applicant has a 6' bufferyard in the front yard, allowing for a buffer between the public Right of Way and subject property.

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 altering the proposed structure to adhere by the rear setback and rear buffer yard requirements. This would result in an unnecessary hardship, as this would not allow for the expansion of the parking lot as proposed.

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

In this case, the proposed rear setback of 7'-6", elimination of the rear buffer yard, and maintaining a 6' front buffer will adhere to the spirit of the ordinance and substantial justice will be done by allowing for suitable distances between structures and 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.*

If granted, the proposed structure will be 7'-6" from the rear property line, have no rear buffer yard, and maintain a 6' buffer in the front. These requests will not alter the essential character of the district, as the new structure will have the same building footprint as it did previously. Additionally, neighboring properties were observed with similar rear setbacks and buffer yards.

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, such as the length of the parcel. Due to this, the applicant would not be able to build a sizeable structure without reducing the amount of required parking spaces in the front. 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 Types of Buffer Yards Required in Section 35-510 and Lot and Building Dimensions of Section 35-310.01 of the UDC.

Staff Recommendation – Rear Setback and Landscape Buffer Variances

Staff recommends **Approval** of 1) a 22'-6" variance from the required 30' minimum rear setback requirement to allow a structure to be 7'-6" from the rear property line, 2) a 15' variance from the required 15' minimum rear buffer yard requirement to allow the elimination of the rear buffer yard, and 3) a 4' variance from the required 10' minimum front buffer yard requirement to allow a buffer yard to be 6' on a Secondary Arterial Type B. in BOA-22-10300235 based on the following findings of fact:

1. The proposed rear setback of 7'-6", elimination of the rear buffer yard, and maintaining a 6' buffer yard in the front will adhere to the spirit of the ordinance and substantial justice will be done by allowing for suitable distances between structures and neighboring properties; and
2. The size of the lot is small, preventing the construction of a sizeable building and parking lot.