

Case Number:	BOA-23-10300095
Applicant:	Mandy Lopez
Owner:	Maria Lopez
Council District:	5
Location:	2627 San Luis Street
Legal Description:	Lot 27, Block 0, NCB 6903
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:	Joseph Leos, Planner

Request

A request for 1) a 4'-11" variance from the minimum 5' side setback, as described in Sec. 35-310.01, to allow a structure to 1" from the side property line, 2) a 15' variance from the minimum 20' rear setback, as described in Sec. 35-310.01, to allow a structure to be 5' from the rear property line, and 3) a 4'-10" variance from the minimum 15' clear vision, as described in Sec. 35-514(a)(2), to allow a 10'-2" clear vision for a driveway.

Executive Summary

The subject property is located along San Luis Street near South Zarzamora Street. Prior to construction and obtaining building permits, the applicant is seeking a variance to expand an existing structure that will be imposing into the side and rear setbacks. The new addition is anticipating being in line with the existing home and per the site plan, is expected to be 2'-2" from the side property line. Upon site visits, staff observed the existing structure imposing into the side setback, more than the anticipated addition, measuring 1" from the side property line. Furthermore, the structure is expected to be 5' from the rear property line and will be abiding by all other setback requirements. Structures built in San Antonio are required to be setback 5' from the side property line and 20' from the rear property line. The applicant is also seeking a variance to deviate from the minimum clear vision distance of 15', to allow a predominantly open fence to be 10'-2" for a driveway. Per BCAD, it is noted that the dwelling was constructed in 1939, as this allowed for less strict building regulations at the time it was built, causing the existing structure to impede into the setback.

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
Residential Repair Permit (REP-RRP-PMT-23-35301519)- April 2023
Foundation Repair Permit (REP-FND-PMT23-35100488)- February 2023

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 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
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	“C-2 S MLOD-2 MLR02 AHOD” Commercial Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District with a Specific Use Authorization for a Hospital	Hospital
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 as “Low Density Residential” in the future land use component of the plan. The subject property is located within the boundary of the Prospect Hill Neighborhood Association, and they have been notified of the request.

Street Classification

San Luis Street is classified as a local road.

Criteria for Review – Side and Rear Setback and Clear Vision 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. In this case, the public interest is represented by restricted setbacks to prevent a structure from being built too close to another and safety concerns. The applicant is requesting a variance to the side and rear setback to allow a structure to be 1’ from the side property line and 5’ from the rear property line. Staff finds this distance is not suitable, as it is too close to the neighbors shared property line, storm water runoff imposes onto the neighboring property, and risk of fire spread is heightened.

The applicant is also seeking a variance to deviate from the minimum clear vision requirement, to allow a predominantly open to fence to be 10'-2" from the driveway curb. Staff finds this request not contrary, as the current distance allows for the public interest of drivers to not be interfered by the reduced clear vision.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*

Staff found no special conditions on the subject property to warrant the need for a reduced side and rear setback. No unnecessary hardship seems to be presented, if current UDC building regulations were enforced.

The special condition found on the subject property for the approval of the clear vision variance is the amount of front yard space being drastically reduced if the ordinance was enforced.

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 structure would be 1" from the side property line and 5' from the rear property line. Allowing the variance to be granted allows for water drainage concerns and structures being close together, which does not observe the spirit of the ordinance.

The spirit of the ordinance will be observed with a 10'-2" clear vision distance, as persons traveling by vehicle have an unobstructed view of the driveway.

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 be 1" from the side property line and 5' from the rear property line, which is likely to alter the essential character of the district, as over development of subject property may occur.

A 10'-3" clear vision distance does not appear to alter the essential character of the district, nor will it injure adjacent properties, as other predominantly open fences with similar clear vision distances were seen in the immediate area.

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.*

There are no unique circumstances present in this case to warrant the need for the reduced side and rear setbacks.

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 size of the front yard, causing the fence to be constructed into the clear vision field. 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 Regulations Section 35-310.01 and Fences Section 35-514(a)(2) of the UDC.

Staff Recommendation – Side and Rear Setback Variance

Staff recommends Denial in BOA-23-10300095 based on the following findings of fact:

1. Staff finds this distance is not suitable, as it is too close to the neighbors shared property line,
2. Storm water runoff imposes onto the neighboring property, and risk of fire spread is heightened.

Staff Recommendation – Clear Vision Variance

Staff recommends **Approval** in **BOA-23-10300095** based on the following findings of fact:

1. Persons traveling by vehicle have an unobstructed view of the driveway; and
2. Other predominantly open fences with similar clear vision distances were seen in the immediate area.