

Case Number:	BOA-23-10300130
Applicant:	LA Enterprises Inc.
Owner:	LA Enterprises Inc.
Council District:	2
Location:	1264 South WW White Road
Legal Description:	The north 100.58 feet of the south 200.58 feet of Lot 78, NCB 10754
Zoning:	"C-2 MLOD-3 MLR-1" Commercial Martindale Army Air Field Military Lighting Overlay Military Lighting Region 1 District
Case Manager:	Mirko Maravi, Principal Planner

**Request**

A request for 1) a 25'-6" variance from the minimum 30' rear setback, as described in Sec 35-310.01, to allow a structure with a 4'-6" rear setback and 2) a 10'-6" variance from the minimum 15' buffer yard, as described in Sec 35-510, to allow a structure with a 4'-6" rear buffer yard.

**Executive Summary**

The subject property is located on South WW White Road, surrounded by commercial and industrial uses on all sides except the rear (east). Applicant constructed an addition to the building that encroaches on the rear setback and buffer. The building was constructed when it was zoned "F" Local Retail District which required a 20% rear setback; for this lot, it would be 24' as the principal structure stands now. The addition was constructed for storage purposes.

**Code Enforcement History**

Building Without a Permit (INV-PBP-23-3100000872)- February 2023  
Zoning UDC Investigation (INV-ZPS-23-3160000631)- February 2023

**Permit History**

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

**Zoning History**

The subject property was annexed into the City of San Antonio by Ordinance 18115, dated September 24, 1952 and originally zoned "F" Local Retail District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned "F" Local Retail District converted to the current "C-2" Commercial District.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
"C-2 MLOD-3 MLR-1" Commercial Martindale Army Air Field Military Lighting Overlay Military Lighting Region 1 District	Commercial Retail

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
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North	"C-2 MLOD-3 MLR-1" Commercial Martindale Army Air Field Military Lighting Overlay Military Lighting Region 1 District	Parking Lot
South	"C-2 MLOD-3 MLR-1" Commercial Martindale Army Air Field Military Lighting Overlay Military Lighting Region 1 District	Commercial Retail
East	"R-5 MLOD-3 MLR-1" Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 1 District	Single Family Dwelling
West	"I-1 MLOD-3 MLR-1" General Industrial Martindale Army Air Field Military Lighting Overlay Military Lighting Region 1 District	Contractor Facility

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Eastern Triangle Community Plan and is designated as “High Density Mixed Use” in the future land use component of the plan. The subject property is located within the boundary of the Dellcrest Area and Hein Orchard Neighborhood Associations, and they have been notified of the request.

**Street Classification**

South WW White Road is classified as a Primary Arterial Type A.

**Criteria for Review – Rear Setback and Buffer 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 rear setback and buffer yard to provide spacing between the commercial use lot and the abutting residential lot. The applicant is requesting a variance to the rear setback and buffer yard to be 4’-6” from the rear property line. Staff finds this distance is not suitable, as it imposes on the public interest of the adjacent residential neighbor by being too close to the shared property line and commercial uses.

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 that warrant the need for the addition to have a 4’-6” rear setbacks and buffer yard. No unnecessary hardship seems to be presented in this case, as the applicant could redesign interior of the store to provide additional storage.

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. In this case, the intention is for sufficient spacing between a commercial use and a residential use to the rear. The addition does not observe the spirit of the ordinance or intent of the code as it will be too close to the shared property line and neighboring residential lot.

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 maintain 4'-6" from the rear property line, which is likely to injure the appropriate use of the adjacent conforming property by having commercial uses close to the residential side property line.

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 found no unique circumstances on the subject property that would warrant the need for a reduced rear setback and buffer yard. Additionally, if the applicant had obtained permits for the addition, the setback dialogue would have been communicated.

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

The alternative to the applicant's request is to conform to the Structure Setback of the UDC Section 35-310.01 and conform to the Buffer Requirements of the UDC Section 35-510.

#### **Staff Recommendation – Side Setback**

Staff recommends Denial in BOA-23-10300130 based on the following findings of fact:

1. This distance is not suitable, as it imposes on the public interest of the adjacent neighbor by being too close to the shared residential property line; and
2. The spirit of the ordinance is not being observed as it increases commercial uses close to the residential side property line.