

Case Number:	BOA-23-10300210
Applicant:	Shannan Lowry
Owner:	Shannan Lowry
Council District:	6
Location:	3711 Pipers Cross Street
Legal Description:	Lot 23, Block 21, NCB 18071
Zoning:	“R-6 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Case Manager:	Richard Bautista-Vazquez, Planner

### **Request**

A request for 1) a 6' variance from the minimum 20' rear setback requirement, as described in Section 35-310.01, to allow a structure to be 14' from the rear property line and 2) a request for a 4' variance from the minimum 5' side setback requirement, as described in Section 35-310.01, to allow a structure to be 1' from the side property line to include a 1' overhang.

### **Executive Summary**

The subject property is located on a corner lot on Pipers Cross Street and Pipers Swan and contains a single-family dwelling. Granting the rear variance will allow an addition to be 14' from the rear property line and granting the side variance will allow the structure to be 1' from the side property line with 1' of overhang. The addition has not yet been constructed. There is currently a home located behind the subject property and a right of way located east of the subject property.

### **Code Enforcement History**

There are no code violations for this property.

### **Permit History**

There are no permits on file for the property. The permit for the structure is pending the outcome of the Board of Adjustment Hearing.

### **Zoning History**

The subject property was annexed into the City of San Antonio by Ordinance 61624 dated December 29, 1985 and zoned Temporary “R-1” Single Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned Temporary “R-1” Single Family Residence District converted to “R-6” Residential Single-Family District.

### **Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“R-6 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single Family Dwelling

### **Surrounding Zoning/Land Use**

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“R-6 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single Family Dwelling
South	“R-6 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single Family Dwelling
East	“R-6 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single Family Dwelling
West	“R-6 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single Family Dwelling

### **Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the West/Southwest Sector Plan and is designated as “Suburban Tier” in the future land use component of the plan. The subject property is located within the Pipers Meadow Neighborhood Association, and they were notified of the case.

### **Street Classification**

Pipers Cross Street and Pipers Swan Street are classified as local roads.

### **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 applicant is requesting a 6’ variance from the minimum 20’ rear setback requirement to allow a structure to be 14’ from the rear property line, which does not appear to be contrary to the public interest as there is adequate space remaining from the property line to the proposed structure.**

The applicant is also requesting a side setback variance of 4' to allow a structure to be 1' with 1' of overhang. This request is contrary to the public interest as the proposed structure will be too close to the adjacent right of way.

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

**Staff finds an unnecessary hardship for the rear setback variance due the size of the lot. A rear addition cannot be built without obtaining a variance. The proposed structure will have ample space to extend into the rear.**

Staff finds no hardship on the side setback variance as the structure is proposed and making a side addition will bring it too close to the side property line. The applicant can comply with the side setback regulations and still have a sizable addition.

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

**The requested rear setback variance is to allow a structure to be closer to the rear property line. The request will observe the spirit of the ordinance because the proposed structure will still maintain a reasonable distance between the structure and the surrounding properties.**

The requested side setback variance will not observe the spirit of the ordinance as the proposed addition will bring it too close to the side property line significantly reducing the space between the right-of-way.

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 rear setback variance would alter the essential character of the district. There will be a remaining 14' of distance from structure to the property line, therefore the request would not alter the essential character of the neighborhood.**

Staff does find evidence that the requested side setback variance would alter the essential character of the district. The proposed addition will be too close to the property line and may infringe on the right-of-way and pedestrians passing through. There were no other similar structures with similar side setbacks in the 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.*

**The rear setback variance is sought is due to unique circumstances existing on the property such proposed addition needing more space due to the configuration of the lot. The variance request is not merely financial.**

The side setback variance is sought due to unique circumstances existing on the property such proposed addition needing more space. Granting the variance will cause the proposed addition to be too close to the side property line.

### **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 Setback Variance**

Staff recommends **Approval** in **BOA-23-10300210** based on the following findings of fact:

1. The structure has not been constructed; and
2. There is a limited amount of space available to comply with the rear setback and to develop an addition; and
3. The structure will not substantially injure adjacent properties.

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

Staff recommends **Denial** in **BOA-23-10300210** based on the following findings of fact:

1. The addition will be too close to the side property line causing possible water runoff on the adjacent right of way.