

Case Number:	BOA-21-10300186
Applicant:	Jaime White
Owner:	Javier Martinez
Council District:	7
Location:	5622 Harefield Drive
Legal Description:	Lot 41, Block 1, NCB 15029
Zoning:	“R-5 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Hazard Overlay District
Case Manager:	Roland Arsate, Planner

### **Request**

A request for an 8’ 5” variance from the minimum 20’ rear setback requirement, as described in Section 35-310, to allow a residential structure to be 11’ 7” away from the rear property line.

### **Executive Summary**

The subject property is located on the corner of Harefield Drive and Canterbury Drive. The subject property currently has a single-family residence constructed on the property and is zoned residential single family. The applicant built a two-story addition attached to the rear of the existing structure. The addition sits 11’ 7” from rear property line, where the setback should be 20’ per UDC 35-310. Additionally, the site shows the structure to slightly encroach into the 12’ utility easement. If the variance is approved, the applicant will need to coordinate with the utility companies to ensure the structure can remain. Upon staff’s site visit, it was observed that there were other two-story structures in the immediate area.

### **Code Enforcement History**

There are no relevant Code Enforcement violations pending.

### **Permit History**

October 2020- Building Permit

Jan 2021- Plumbing Permit.

### **Zoning History**

The subject property was annexed by the City of San Antonio by Ordinance 18115, dated September 24, 1952 and zoned “R-5” Single-Family Residence District. A portion of the subject property was rezoned by Ordinance 61383, dated September 05, 1985 from “R-5” Single Family Residence to “B-3NA” Non-Alcoholic Sales Business District. The subject property was rezoned by ordinance 89329, dated February 25, 1999 “B-3NA” Non-Alcoholic Sales Business District to “R-5” Single Family Residence District. Upon adoption of the 2001 Unified Development Code, the zoning converted from “R-5” Single Family Residence District to the current “R-5” Residential Single-Family District, established by Ordinance 93881, dated May 3, 2001.

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

Existing Zoning	Existing Use
“R-5 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Hazard Overlay District	Single-Family Residence

## Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-5 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Hazard Overlay District	Single-Family Residence
South	“R-5 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Hazard Overlay District	Single-Family Residence
East	“R-5 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Hazard Overlay District	Single-Family Residence
West	“R-5 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Hazard Overlay District	Single-Family Residence

## Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the West Sector Plan and is designated “General Urban Tier” in the future land use component of the plan. The subject property is not located within a Neighborhood Association.

## Street Classification

Harefield Drive and Canterbury Drive are both classified as local roads.

## Criteria for Review –Rear Setback Variances

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 in order to allow a room addition to be 11’ 7” away from the rear property line.**

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 having to alter or remove a two-story structure so that it is 20’ from the rear property line so it complies with UDC 35-310. There are other two-story structures in the immediate area so the room addition does not appear to be out of character with the surrounding area.**

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 rear room addition will maintain a distance of 11' 7" from the rear property line, which provides enough distance between this structure and neighboring structures and poses no fire risk, which observes 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.*

**If granted, the structure will maintain 11' 7" from the rear property line, which is not likely to alter the essential character of the district or neighboring properties.**

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. The large rear yard provides enough space for a large room addition and still provides adequate room between this room addition and the neighboring properties. The circumstances were not created by the owner and are not merely financial.**

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

The alternative to the applicant's request is to conform to the Lot and Building Dimensions of the UDC Sections 35-310.

### **Staff Recommendation – Rear Setback Variance**

Staff recommends **Approval** in **BOA-21-10300186** based on the following findings of fact:

1. The addition is currently setback 11' 7" from the rear property line and meets the side setback requirements; and
2. The large yard on the corner lot provides enough adequate space from neighboring structures; and
3. The room addition and rear setback variance do not appear to have any adverse effects on surrounding properties.