

Case Number:	BOA-22-10300011
Applicant:	Andrew Stewart
Owner:	Andrew & Sarah Stewart
Council District:	8
Location:	142 Adelaide Oaks
Legal Description:	Lot 4, Block 10, NCB 16331
Zoning:	"RM-4 PUD MLOD-1 MLR-2 ERZD" Residential Mixed Planned Unit Development Camp Bullis Military Lighting Overlay Military Lighting Region-2 Edwards Recharge Zone District.
Case Manager:	Roland Arsate, Planner

### **Request**

A request for 1) a 15' variance from minimum 20' rear setback requirement, as described in Section 35-310, to allow a room addition to be 5' from the rear property line.

### **Executive Summary**

The subject property is located on Adelaide Oaks near UTSA boulevard. The subject property is currently a small residential single-family lot within a subdivision with RM-4 PUD zoning. The dwelling is currently about

### **Code Enforcement History**

There is no relevant Code Enforcement History on file.

### **Permit History**

August 2005 – Construction of New Residential Structure

### **Zoning History**

The subject property was annexed into the City of San Antonio by Ordinance 39197, dated February 24, 1971, and zoned Temporary "R-1" Single Family Residence District. The property was rezoned from Temporary "R-1" Single Family Residential District to "B-2" by Ordinance 73434, dated April 4<sup>th</sup> 1991. Upon adoption of the 2001 Unified Development Code, the zoning converted from "B-2" Business District to the current "C-2" Commercial District. The property was rezoned by Ordinance 95922 dated June 13, 2002 from "C-2" Commercial District to "RM-4 PUD" Residential Mixed Plan Unit Development District.

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

Existing Zoning	Existing Use
"RM-4 AHOD" Residential Mixed Airport Hazard Overlay District	Single-Family Residence

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

Orientation	Existing Zoning District(s)	Existing Use
North	"RM-4 PUD MLOD-1 MLR-2 ERZD" Residential Mixed Planned Unit Development Camp Bullis Military Lighting Overlay Military Lighting Region-2 Edwards Recharge Zone District.	Single-Family Residence
South	"RM-4 PUD MLOD-1 MLR-2 ERZD" Residential Mixed Planned Unit Development Camp Bullis Military Lighting Overlay Military Lighting Region-2 Edwards Recharge Zone District.	Single-Family Residence
East	"RM-4 PUD MLOD-1 MLR-2 ERZD" Residential Mixed Planned Unit Development Camp Bullis Military Lighting Overlay Military Lighting Region-2 Edwards Recharge Zone District.	Single-Family Residence
West	"RM-4 PUD MLOD-1 MLR-2 ERZD" Residential Mixed Planned Unit Development Camp Bullis Military Lighting Overlay Military Lighting Region-2 Edwards Recharge Zone District.	Single-Family Residence

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

The subject property is in the Arena District Plan and is designated "Medium Density Residential" in the future land use component of the plan. The subject property is located within the Denver Heights Neighborhood Association and were notified of the case.

### **Street Classification**

Adelaide Oaks is classified as a local road.

### **Criteria for Review - 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 for a two story room addition attached to the rear of the primary home. The room addition will be 5 feet away from the rear property line which appears to be contrary to the public interest.

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 not being able to build the room addition as the rear setback is 10 feet from rear property line. Being 5 feet from the rear property line might bring up fire/safety issue that might arise being too close to neighboring structures.

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. A 5 foot rear setback will not observe the spirit of the ordinance, as it may pose a fire/safety hazard as it sit too close to property lines and neighboring structures.

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 finds the request for a 15 foot variance proposed is too close to the property line and is likely to affect the adjacent neighboring property as well as pose a life/safety risk. The required setback is 10 feet which would allow them to add an addition with a depth of 10 to the rear of the dwelling.

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 not due to unique circumstances existing on the property.

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

The alternative to the applicant's request is to conform to the Lot and Building Dimensions of the UDC Section 35-310.01.

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

Staff recommends Denial in BOA-22-10300011 based on the following findings of fact:

1. The room addition being proposed 5 feet away from the rear property line; and
2. The structure is currently setback 21' 8" from the rear property line; and
3. The minimum required setback is 10' which would allow for an addition to the existing home without encroaching into the rear setback.