



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** March 4, 2024

**In Control:** Board of Adjustment Meeting

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**DEPARTMENT:** Development Services Department

**DEPARTMENT HEAD:** Michael Shannon

**CASE NUMBER:** BOA-24-10300013

**APPLICANT:** Maria Del Rosario

**OWNER:** Maria Del Rosario

**COUNCIL DISTRICT IMPACTED:** District 7

**LOCATION:** 1713 Texas Avenue

**LEGAL DESCRIPTION:** Lot 9, Block 37, NCB 2032

**ZONING:** "R-4 NCD-8 MLOD-2 MLR-2 AHOD" Residential Single-Family Woodlawn Lake Area Neighborhood Conservation Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

**CASE MANAGER:** Richard Bautista-Vazquez, Planner

**A request for**

- 1) A Window Configuration Variance from the NCD-8 Window Configuration Standards. (Section 35-335(c))
- 2) A 3' variance from the minimum 5' side setback to allow a side setback to be 2' to include a 1' overhang. (Section 35-310.0)

**Executive Summary**

The property is located just west of Woodlawn Lake and is in The Woodlawn Lake Area Neighborhood Conservation District. The applicant started renovations of the subject property without permits. The subject property altered a front window which caused it to be out of

compliance of the Woodlawn Lake Area Neighborhood Conservation District design standards. Upon staff site visit an addition of a poach was observed that measured 2', including a 1' overhang, from the side setback. The addition is in line with the existing structure.

### **Code Enforcement History**

INV-PBP-24-3100000151 PMT-Building Without a Permit - 01/10/2024

### **Permit History**

RES-IMP-APP24-32000153 Residential Improvements Permit Application 01/30/2024.

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

### **Zoning History**

The subject property was part of the original 36 square miles of the City of San Antonio and originally zoned "B" Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned "B" Residence District converted to the current "R-4" Residential Single-Family District.

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

#### **Existing Zoning**

"R-5" Residential Single-Family District

#### **Existing Use**

Single-Family Residence

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

#### **North**

#### **Existing Zoning District(s)**

"R-5" Residential Single-Family District

#### **Existing Use**

Single-Family Residence

#### **South**

#### **Existing Zoning District(s)**

"R-5" Residential Single-Family District

#### **Existing Use**

Single-Family Residence

#### **East**

#### **Existing Zoning District(s)**

"R-5" Residential Single-Family District

#### **Existing Use**

Single-Family Residence

#### **West**

#### **Existing Zoning District(s)**

"R-5" Residential Single-Family District

#### **Existing Use**

Single-Family Residence

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Near Northwest Community Plan and is designated as “Urban Low Density Residential” in the future land use component of the plan. The subject property is located within the boundary of Woodlawn Lake Neighborhood Association, and they have been notified of the request.

**Street Classification**

Texas Avenue is classified as a local road.

**Criteria for Review – 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 public interest is defined as the general health, safety, and welfare of the public. In this case the distance between both properties is reasonable and may not cause water runoff issues.

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

Staff found special conditions on the subject property that warrant the need for the accessory structure to have a 2’ side setback with 1’ overhang. The addition appears to be inline with the existing structure.

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 the accessory structure and the property line.

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 2’ side setback with 1’ overhang from the side property line, which is unlikely to injure the appropriate use of the adjacent property.

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 unique circumstances on the subject property that would warrant the need for a reduced side setback such as the addition being inline of the existing structure.

### **Criteria for Review – Variance from The Woodlawn Lake Area Neighborhood Conservation District Design Standards**

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 Woodlawn Lake Neighborhood Conservation Design standards states that windows for new construction shall have a vertical 2:1 ratio dimension and a minimum six inch (6”) vertical separation from other windows.

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 conform to the vertical 2:1 ratio dimension and a minimum six inch (6”) vertical separation from other windows design.

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 requested variance does not appear to observe the spirit of the ordinance as the window would go against the Woodlawn Lake Design Standards.

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 the variance may likely negatively affect the adjacent neighboring property as the NCD was adopted to preserve the character of the district, and the standards are not being met by this variance.

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, such as being in a Neighborhood Conservation District.

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

The alternative to the applicant's request is to conform to the Woodlawn Lake Neighborhood Conservation District Standards of UDC Section 35-335(c) and side setback standards of the UDC Section 35-310.0.

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

Staff recommends Approval in BOA-24-10300013 based on the following findings of fact:

1. This distance is suitable, as it does not impose on the public interest of the adjacent neighbor by being too close to the shared property line.
2. Water runoff issues may be minimal.

### **Staff Recommendation – Woodlawn Lake Neighborhood Conservation District Design Variance**

Staff recommends Denial in BOA-24-10300013 based on the following findings of fact:

1. The window will alter the essential character of the district; and
2. No similar windows were seen in the vicinity.