

Case Number:	BOA-22-10300048
Applicant:	Howard Guidry
Owner:	Eric and Isela Conley
Council District:	9
Location:	23010 Summit Canyon
Legal Description:	Lot 75, Block 7, NCB 18218
Zoning:	“R-6 ERZD” Residential Single-Family Edwards Recharge Zone District
Case Manager:	Vincent Trevino, Senior Planner

Request

A request for a 3’ variance from the minimum 5’ rear setback requirement, as described in Section 35-516(h), to allow a swimming pool to be 2’ from the rear property line.

Executive Summary

The subject property is located near the intersection of Summit Canyon and Cliff Canyon. The applicant is requesting a variance from the minimum 5’ rear setback for swimming pools. A swimming pool permit was issued in December 2021, and the submitted site plan showed a 5’ rear setback. Upon inspection of the swimming pool, it was noted that the swimming pool was setback 2’ as opposed to the required 5’. The rear yard of the property is small in nature and the swimming pool is currently under construction.

Code Enforcement History

There is no relevant code enforcement history for the subject property.

Permit History

A residential swimming pool permit was issued on December 28, 2021.

Zoning History

The property was annexed into the City of San Antonio by Ordinance 61608, dated December 29, 1985 and zoned “R-1 ERZD” Single-Family Residence Edwards Recharge Zoning District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “R-1 ERZD” Single-Family Residence Edwards Recharge Zoning District converted to the current “R-6 ERZD” Residential Single-Family Edwards Recharge Zoning District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-6 ERZD” Residential Single-Family Edwards Recharge Zone District	Single Family Residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 ERZD” Residential Single-Family Edwards Recharge Zone District	Single Family Residence

South	“R-6 ERZD” Residential Single-Family Edwards Recharge Zone District	Single Family Residence
East	“R-6 ERZD” Residential Single-Family Edwards Recharge Zone District	Single Family Residence
West	“R-6 ERZD” Residential Single-Family Edwards Recharge Zone District	Single Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the North Sector Plan and is designated Suburban Tier in the future land use component of the plan. The subject property is not located within the boundaries of a registered neighborhood association.

Street Classification

Summit Canyon is classified as a local road.

Criteria for Review – 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. The applicant is requesting a 3’ variance from the minimum 5’ rear setback requirement to allow a pool to be 2’ from the rear property line. The majority of the swimming pool maintains the 5’ rear setback, so the corner that encroaches into the setback does not appear 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 having to relocate the swimming pool to meet the 5’ rear setback requirement. There is only one corner that is encroaching into the rear setback.

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 swimming pool is currently 2’ from the rear property line on one end of the pool. This observes the spirit of the ordinance as the majority of the pool is setback the required 5’.

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.*

The variance will not authorize the operation of a use other than those specifically authorized in the “R-6” zoning district.

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.*

The proposed variance does not appear to substantially injure adjacent conforming properties nor alter the essential character of the district.

- 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 request appears to be sought due to the small size of the subject property and the angled rear property line which are unique circumstances existing on the lot and are not merely financial.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Lot Layout Standards per UDC Section 35-516(h).

Staff Recommendation – Rear Setback Variance

Staff recommends **Approval** in **BOA-22-10300048** based on the following findings of fact:

1. The rear property line is not straight and has an angle; and
2. The majority of the length of the swimming pool meets the five foot rear setback requirement while one corner of the pool is 2' from the rear property line.