

Case Number:	BOA-22 -10300065
Applicant:	Weston Dean Custom Homes
Owner:	Gawain Dyer & Kidist Yohannes-Dyer
Council District:	10
Location:	228 Rockhill Drive
Legal Description:	Lot 17, NCB 11863
Zoning:	“NP-10 AHOD” Neighborhood Preservation Airport Hazard Overlay District
Case Manager:	Rebecca Rodriguez, Senior Planner

### **Request**

A request for 1) a 9” variance from the minimum 20’ front setback requirement, as described in Section 35-353, to allow a structure to be 19’ 3” from the front property line and 2) 3’ variance (with 8’ credit from the alley) from the minimum 20’ rear setback requirement, as described in Section 35-353, to allow a structure to be 9’ from the rear property line.

### **Executive Summary**

The subject property is located along Rockhill Drive and is currently a vacant lot. An application was submitted for the construction of a single-family residence on the lot, however during the review process it was determined that a setback variance would be required based on the current plans. The property is zoned “NP-10” Neighborhood Preservation District which requires a 20’ front setback and 20’ rear setback. The applicant is requesting to allow the new structure to be 19’ 3” from the front property line and 9’ from the rear property line. There is an alleyway located along the rear of the property that measures 16’ in width. The property owner is able to utilize half of the alleyway, 8’, towards the rear setback.

### **Code Enforcement History**

There are no relevant Code Enforcement investigations for the subject property.

### **Permit History**

A demolition permit was issued on June 21, 2017, to demolish a two-story structure. A permit application for a new single-family residence was submitted on February 4, 2022. The issuance of the permit is pending the outcome of the Board of Adjustment hearing due to a hold on the zoning and building reviews.

### **Zoning History**

The property was annexed into the City of San Antonio by Ordinance 18115, dated September 25, 1952, and zoned “A” Single-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “A” Single-Family Residence District converted to the current “R-5” Residential Single-Family District. The property was rezoned by Ordinance 2006-06-15-0728, dated June 25, 2006, to “NP-10” Neighborhood Preservation District.

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

Existing Zoning	Existing Use
“NP-10 AHOD” Neighborhood Preservation Airport Hazard Overlay District	Vacant Lot

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

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“NP-10 AHOD” Neighborhood Preservation Airport Hazard Overlay District	Single-Family Residence
South	“NP-8 AHOD” Neighborhood Preservation Airport Hazard Overlay District	Single-Family Residence
East	“NP-10 AHOD” Neighborhood Preservation Airport Hazard Overlay District	Vacant Lot
West	“NP-10 AHOD” Neighborhood Preservation Airport Hazard Overlay District	Single-Family Residence

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

The subject property is in the Northeast Inner Loop Neighborhood Plan and is designated “Low Density Residential” in the future land use component of the plan. The subject property is located within the boundary of the Oakpark - Northwood Neighborhood Association, and they have been notified of the request.

### **Street Classification**

Rockhill Drive is classified as a local road.

### **Criteria for Review – Front and Rear 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. The applicant is requesting a variance to the front and rear setback requirements to allow a structure to be 19’ 3” from the front property line and 9’ from the rear property line. The structure meets the minimum side setback requirements and will maintain adequate spacing between the structure and front and rear property lines, which 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 building the new single-family residence 20’ from the front property line and 20’ from the rear property line. Staff finds an unnecessary hardship due to the irregular shape of the lot which would prevent the development of a reasonable sized residence and requirement to redesign plans. The property maintains a long driveway to access the rear portion of the lot, where the proposed residence will be located.**

- 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 applicant is requesting a 9” variance to the front and 3’ to the rear (due to alleyway credit) which situates the proposed residence a reasonable distance from the property lines. The spirit of the ordinance will be observed as there will still be space between the structure and the property lines.**

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 variance would alter the essential character of the district. The property is situated in a neighborhood where unique shaped lots are common. Based on the site plan provided, the location of the proposed residence will not be seen from the Right-of-Way therefore injury to adjacent properties is unlikely.**

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 the shape and positioning of the lot, along with the zoning district’s requirement to maintain twenty feet from the front and rear property line, thus the request is not merely financial.**

### **Alternative to Applicant’s Request**

The alternative to the applicant’s request is to conform to the “NP-10” Setback Regulations of the UDC Section 35-353.

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

Staff recommends **Approval** in **BOA-22-10300065** based on the following findings of fact:

1. Due to unique circumstances on the property, the structure cannot maintain the required 20’ front setback and 20’ rear setback; and
2. There was previously a single-family residence on the lot; and
3. The property abuts an alleyway along the rear property line which gives the rear setback a credit of 8’.