

Case Number:	BOA-22-10300094
Applicant:	Susan Almazan
Owner:	Susan Elizabeth & Jose Almazan
Council District:	5
Location:	565 North San Manuel
Legal Description:	Lot 6 & 7, Block 8, NCB 8296
Zoning:	“R-5 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Case Manager:	Rebecca Rodriguez, Senior Planner

Request

A request for a 4' 1" variance from the minimum 5' side setback requirement, as described in Section 35-310, to allow a room addition with overhang and gutters to be 11" from the side property line.

Executive Summary

The subject property is located south of Culebra Road on North San Manuel and has a single-family residence. The applicant constructed an attached structure in the side yard without obtaining a building permit and a Stop Work Order was posted. Measurements obtained during a site visit conducted by staff confirmed that the attached structure is 11" from the side property line. Attached structures are required to maintain a minimum side setback of 5'. The structure is 26 square feet and is being utilized as a closet and has an overhang and gutters.

Code Enforcement History

An investigation was opened on December 23, 2020 for Building Without a Permit/Working outside Scope of Work. The case is pending resolution.

Permit History

There are no permits on file for the property. The permit for the addition is pending the outcome of the Board of Adjustment Hearing.

Zoning History

The subject property was located within the original 36 square miles of the City of San Antonio and zoned “C” Apartment District Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “C” Apartment District converted to “MF-33” Multi-Family District. The property was rezoned by Ordinance 97385, dated March 27, 2003, to “R-5” Residential Single-Family District.

Subject Property Zoning/Land Use

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

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-5 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
South	“R-5 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
East	“R-5 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
West	“R-5 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport 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 located within the boundary of the Loma Vista Neighborhood Association, and they have been notified of the request.

Street Classification

North San Manuel 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. The applicant is requesting a 4’1” variance to the side setback to allow an attached addition to be 11” from the side property line. This distance does not provide adequate spacing between the new structure and neighboring property thus appears to be contrary to the public interest.

The alternate would be to reduce the square footage of the structure and maintain 3’ from the side property line. This would reduce potential adverse impacts such as water runoff along with fire and safety hazards to adjacent properties.

- 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 develop an addition to the side of the residence and having to relocate it to the rear of the existing residence.

The alternate recommendation would allow for a side addition to be located 3' from the side property line which alleviates the unnecessary hardship presented due to the narrowness of the lot.

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 proposed setback of 11" does not appear to observe the spirit of the ordinance as this will cause the structure to be too close to the adjacent property.

Staff finds that the alternate recommendation will observe the spirit of the ordinance and substantial justice will be done. The alternate recommendation will provide ample spacing while still allowing the development of an addition.

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 addition will maintain 11" from the side property line. This will cause the residence to be too close to the side property line which may injure adjacent conforming properties.

The alternate of a 3' side setback does not appear to alter the essential character of the district. Other structures in the surrounding area appear to maintain a 3' side setback therefore the alternate recommendation appears to align closely with the existing character of the neighborhood.

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 such as the width of the lot and configuration of the residence existing on the property. The request is not merely financial.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the setback requirements of the UDC Section 35-310.

Staff Recommendation – Side Setback Variance

Staff recommends Denial with an Alternate Recommendation of a 2' variance from the minimum 5' side setback requirement to allow a room addition to be 3' from the side property line in BOA-22-10300094 based on the following findings of fact:

1. The structure is currently 11" from the side property line; and
2. A side setback of 3' would provide adequate spacing between the subject property and the neighboring property; and
3. A side setback of 3' does not appear to alter the essential character of the neighborhood.