

Case Number:	BOA-23-10300003
Applicant:	Raymundo & Adelfina Olvera
Owner:	Raymundo & Adelfina Olvera
Council District:	4
Location:	1826 Barrett Palms
Legal Description:	Lot 24 and 25, Block 1, NCB 11186
Zoning:	“R-6 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District
Case Manager:	Joseph Leos, Planner

Request

A request for a 4’-7” variance from the minimum 5’ side setback requirement, as described in Section 35-310.01, to allow a structure to be 5” from the side property line.

Executive Summary

The subject property is located along Barrett Palms near South Zarzamora Street. The applicant is seeking to construct a structure that is anticipated to be 5” from the side property line. Structures are required to be setback 5’ from the side property line resulting in the applicant request a 4’-7” variance.

Code Enforcement History

There is no relevant Code Enforcement History for the subject property.

Permit History

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

Zoning History

The subject property was annexed into the City of San Antonio by Ordinance 18115, dated September 24, 1952, and originally zoned “H” Local Retail District. The property rezoned under Ordinance 90954, dated December 9, 1999, from “H” Local Retail District to the “R-1” Single-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “R-1” Single-Family Residence District converted to the current “R-6” Residential Single-Family District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-6 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting	Single-Family Residence

	Overlay Military Lighting Region 1 Airport Hazard Overlay District	
South	“C-3 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Vacant Commercial
East	“R-6 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence
West	“RM-5 MLOD-2 MLR-1 AHOD” Residential Mixed Use Lackland Military Lighting Overlay Military Lighting Region Airport Hazard Overlay District	Charter School

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the West/ Southwest Sector Plan and is designated “General Urban Tier” in the future land use component of the plan. The subject property is not located within a boundary of a neighborhood association.

Street Classification

Barrett Palms 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 public interest is represented by setback restrictions to provide uniformity within the community. The applicant is requesting a variance to the side setback to allow a structure to be 5” from the side property line. This distance does not provide suitable spacing and no other properties in the immediate area have similar structures projecting into the setbacks, which is 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 structure five feet from the side property line, which would not result in an unnecessary hardship as staff found no special conditions on the subject property that would warrant the need for a reduced side 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 structure would be 5” from the side property line, which does not observe the

spirit of the ordinance as it would be too close to the side property line and neighboring structure.

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 be 5” from the side property line, which is likely to alter the essential character of the district as no other properties were imposing into the setback areas. Additionally, the proposed structure could cause harm to the adjacent conforming property, as these setbacks are regulated for safety reasons, such as fire prevention, for neighboring properties.

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. Upon site visits, staff did not observe conditions or unique land configurations on the subject property.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Setbacks per Section 35-310.01 of the UDC.

Staff Recommendation - Side Setback Variance

Staff recommends Denial in BOA-23-10300003 based on the following findings of fact:

1. The structure will be 5” from the side property, which does not provide adequate spacing;
and
2. No other properties were seen to be imposing into the setback area.