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| Case Number: | BOA-22-10300240 |
| Applicant: | Alvin Peters |
| Owner: | Baches Victor H |
| Council District: | 6 |
| Location: | 995 Southwest 36th Street |
| Legal Description: | Lot 43 except east irregular 6 feet, Block 20, NCB 8991 |
| Zoning: | "C-3NA MLOD-2 MLR-1 AHOD" General Commercial Nonalcoholic Sales Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District |
| Case Manager: | Joseph Leos, Planner |

Request

A request for 1) a 7'-6" variance from the required 15' buffer, as described in Section 35-510, to allow a 7'-6" side buffer next to a residential lot, 2) a 9'-9" variance from the required 15' buffer, as described in Section 35-510, to allow a 5'-3" side buffer along a Minor Arterial, 3) a 7'-4" variance from the required 10' buffer, as described in Section 35-510, to allow a 2'-8" side buffer along a Collector, and 4) a 20' variance from the required 30' side setback, as described in Sec 35-310.01, to allow a structure to have a 10' side setback.

Executive Summary

The applicant is requesting a landscape buffer variance for their property to reduce the landscape next to a residential lot, Minor Arterial Road and Collector Road. The buffer requirement requires trees and shrubs along the perimeter of the property. Additionally, a side setback variance is being requested for the development. Upon staff site visit, staff observed similar lots with buffers and setbacks of that of which is being requested.

Code Enforcement History

There are no relevant code compliance cases for the subject property.

Permit History

There are no relevant building permits for the subject property.

Zoning History

The property was annexed into the City of San Antonio by Ordinance 1258 dated August 2, 1944 and was zoned "JJ" Commercial District. Ordinance 68428 dated December 1, 1988 rezoned the property to "B-3NA" Business, Non-Alcoholic Sales District. Upon adoption of the 2001 Unified Development Code, the zoning converted to the current "C-3NA" General Commercial Nonalcoholic Sales District, established by Ordinance 93881 dated May 3, 2001.

Subject Property Zoning/Land Use

| Existing Zoning | Existing Use |
|---|-------------------|
| "C-3NA MLOD-2 MLR-1 AHOD" General Commercial Nonalcoholic Sales Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District | Vacant Commercial |

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 Overlay Military Lighting Region 1 Airport Hazard Overlay District | Car Wash |
| South | "C-3NA MLOD-2 MLR-1 AHOD" General Commercial Nonalcoholic Sales Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District and "I-1 MLOD-2 MLR-1 AHOD" General Industrial Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District | Vacant |
| East | "C-3R MLOD-2 MLR-1 AHOD" General Commercial Restrictive Alcohol Sales Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District | Gas Station |
| West | "MH MLOD-2 MLR-1 AHOD" Manufactured Housing Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District | Manufactured Homes |

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located 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 within Los Jardines and Westwood Square Neighborhood Association and were notified of the case.

Street Classification

Southwest 36th Street is classified as a Secondary Arterial B.

Criteria for Review –Landscape Buffer Variances and 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 requested landscape variances and side setback variances are not contrary to the public's interest as there are similar lots in the are with landscape and setbacks of what is being proposed.

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

Without the variances the applicant would have to comply to the landscape buffer requirements and side setback requirements. This would result in an unnecessary hardship as the lot is small in size.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

Reducing the landscape buffer requirements and side setback requirements will observe the spirit of the ordinance and will not adversely affect surrounding properties in the immediate area, as staff found a decent amount of space between the abutting residentially zoned lot, arterials, and structures.

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 landscape buffer variances and side setback variance will not 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.*

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 the lot being small in size.

The unique character of the business would be hindered by the existing buffer and setback standard.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Landscape Buffer requirements listed in Section 35-510 and Side Setback requirements listed in Section 35-310.01.

Staff Recommendation –Landscape Buffer Variances and Side Setback Variance

Staff recommends **Approval** in **BOA-22-10300240** based on the following findings of fact:

1. The lot is small in size; and
2. The landscape buffer will not alter the essential character of the district; and
3. The side setback provides a suitable amount of space between structures.