

Case Number:	BOA-23-10300076
Applicant:	Leticia Robledo
Owner:	Leticia Robledo
Council District:	5
Location:	442 Arteago
Legal Description:	Lot 22 and Lot 23, Block 11, NCB 11331
Zoning:	“R-4 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District
Case Manager:	Vincent Trevino, Senior Planner

Request

A request for 1) a 15'-10" variance from the minimum 20' rear setback requirement, as described in Section 35-310.01, to allow a structure with a 1'-4" overhang to be 4'-2" from the rear property line, and 2) a 3'-8" variance from the minimum 15' clear vision requirement, as described in Section 35-514 (a)(2) to allow a fence to be 11'-4" from the front driveway.

Executive Summary

The subject property is located along Arteago north of US Hwy 90 and between Wescott and Allende. The applicant has a structure that is less than 20' from the rear property line. Per the UDC, the structure is required to be setback 20' from the rear property line and currently is placed at 4'-2" with a 1'-4" overhang. The “R-4” base zoning district does not have a maximum front setback, and the subject property has an approximate front setback of 60'. Upon site visits, staff did not observe other structures in the immediate area.

Code Enforcement History

The property has no Code Enforcement history.

Permit History

REP-RRP-PMT-22-35305012- December 2022 (interior work)
RES-ADD-PMT22-32502071- December 2022 (front home addition)
MEP-PLM-PMT22-34337158- November 2022 (plumbing)
MEP-SEW-PMT22-34837159- November 2022 (plumbing)
REP-MBR-APP22-35011069- September 2022 (foundation)

Zoning History

The property was annexed into the City of San Antonio by Ordinance 18115, dated September 24, 1952, and zoned “B” Residence District. The property was rezoned by Ordinance 65106, dated May 28, 1987, to “R-7” Small Lot Home District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “R-7” Small Lot Home District converted to the current “R-4” Residential Single-Family District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-4 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-4 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence
South	“R-4 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence
East	“R-4 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence
West	“R-4 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is under the West/Southwest Sector Plan and is designated as “General Urban Tier” in the future land use component of the plan. The subject property is in the Westwood Square Neighborhood Association, and they were notified of the request.

Street Classification

Arteago is classified as a local street.

Criteria for Review – Rear Setback & Clear Vision 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 proposed structure with a 1’-4” overhang would only be 4’-2” from the rear property line and so is contrary to the public interest.

The applicant is requesting a 3’-8” variance from the minimum 15’ clear vision requirement to allow a fence to be 11’-4” from the front driveway. In this case, the predominately open fence does not impede vehicles from entering or exiting the property. Staff finds that this request is not contrary as this distance does not proposes any safety issues.

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

A literal enforcement of the ordinance would not result in unnecessary hardship as the applicant would need to relocate the addition to the front to comply with the ordinance.

A literal enforcement of the ordinance would result in the applicant altering the fence to meet the minimum 15' distance requirement as this would create an unnecessary hardship, as the fence is existing.

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. Reducing the rear setback requirement would injure neighboring properties as there is an existing structure in the rear of the neighboring property.

The fence is currently 11'-4" from the front driveway. Staff finds the spirit of the ordinance will be observed and substantial justice will be done with the requested variance as adequate sight distance is presented.

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.*

The reduced rear setback would injure neighboring properties as there is an existing structure in the rear of the neighboring property.

If granted, the distance will maintain 11'-4" from the front driveway which will not likely alter the essential character of the district. Upon site visits, staff observed other front yard predominantly open fences in the immediate vicinity.

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 variances are sought are not due to unique circumstances existing on the property, but due to the original location of the dwelling structure.

Staff finds the plight of the owner of the property for which the variance is sought do not appear to be merely financial.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Setback Regulations under Section 35-310.01 and Sec 35-514(a)(2) of the UDC.

Staff Recommendation – Rear Setback Variance

Staff recommends Denial in BOA-23-10300076 based on the following findings of fact:

1. The structure is currently 4'-2" from the rear property line which does not observe the spirit of the ordinance by preventing space from the neighboring property; and

Staff Recommendation – Clear Vision Variance

Staff recommends **Approval** in **BOA-23-10300076** based on the following findings of fact:

1. The predominately open fence does not impede vehicles from entering or exiting the property; and
2. The variance will not alter the essential character of the district.