

Case Number:	BOA-23-10300083
Applicant:	Brenda Borrego
Owner:	Brenda Borrego
Council District:	6
Location:	234 Pharis Street
Legal Description:	Lot 4, Block 6, NCB 12960
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 2' variance from the minimum 5' side setback requirement, as described in Section 35-310.01 to allow a structure to be 3' from the side property line.

### **Executive Summary**

The subject property is located along Pharis Street, near the intersection of West Commerce Street and Historic Old Highway 90. Upon permitting, the applicant was informed that they would need a variance for the side setback, to allow a garage to be 3' from the side property line. According to the site plan, the garage is anticipated to be 40' from the front property line and 54' from the rear property line. Upon site visits, staff observed carports in the immediate area but did not see any other garages imposing into the setbacks. Garages constructed in San Antonio are required to maintain a minimum distance of 5' to the side, and 20' to the front. The addition cannot have any overhang past the 3' side setback if variance is approved.

### **Code Enforcement History**

There is no Code Enforcement History for the subject property.

### **Permit History**

The issuance of a building permit is pending the outcome of the Board of Adjustment. Mechanical Permit (MEP-MEC-PMT21-33941392) - December 2021

### **Zoning History**

The subject property was annexed into the City of San Antonio by Ordinance 2590, dated September 5, 1945, and originally zoned "A" Single-Family Residence District. The property rezoned under Ordinance 68337, dated November 17, 1988, from "A" Single-Family Residence District to "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 Overlay Military Lighting Region 1 Airport Hazard Overlay District.	Single-Family Residence
South	"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
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	"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

### **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 no located within a boundary of a registered neighborhood association.

### **Street Classification**

Pharis Street 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 restricted setbacks to provide spacing between property line and structures. The applicant is requesting a variance to the side setback to allow a garage to be 3' from the side property line. Staff finds this distance is not suitable, as it imposes on the public interest of the adjacent neighbor by being too close to the shared property line, water runoff may impose, and risk of fire spread is greater.

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

There are no special conditions on the subject property that warrant the need for the garage to have a 3' side setback. An unnecessary hardship is not present in this situation.

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. In this case, the intention is for sufficient spacing between structure and property line. The carport will be 3' from the side property line, which does not observe the spirit of the ordinance as it will be too close to the shared 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 garage will be 3' from the side property line, which is likely to alter the essential character of the district. Upon site visits, staff observed no garages in the immediate area with a reduced setback. For these reasons, the granting of the variance will alter the essential character of the district, as setback restrictions are enforced for uniformity within a community and consistent development.

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 found no unique circumstances on the subject property to warrant the need for a reduced side setback.

### **Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the Lot and Building Dimension regulations of the UDC Section 35-310.01.

### **Staff Recommendation – Side Setback Variance**

Staff recommends Denial in BOA-23-10300083 based on the following findings of fact:

1. The granting of this variance will result in inconsistent development patterns, as no other garages were seen in the immediate area; and
2. A 3' side setback will amplify the risk of fire spread and storm water runoff can impose on the neighboring property.