



# City of San Antonio

## Legislation Details (With Text)

**File #:** 16-2524  
**Type:** Staff Briefing - Without Ordinance  
**In control:** Board of Adjustment

**On agenda:** 4/11/2016

**Title:** A-16-070: A request by Nabor A. De Leon Jr for the elimination of the required five foot side yard setback to allow a new dwelling on the side property line, located at 322 Bexar Street. (Council District 7)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A-16-070 Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** A-16-070  
**Applicant:** Nabor A. De Leon Jr.  
**Owner:** Nabor A. De Leon Jr.  
**Council District:** 7  
**Location:** 322 Bexar Street  
**Legal Description:** Lot 22 & E. 10 FT of Lot 23, Block 2, NCB 8110  
**Zoning:** "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District  
**Case Manager:** Kristin Flores, Planner

### Request

A request for the elimination of the required five foot side yard setback, as described in Section 35-310.01, to allow a new dwelling on the side property line.

### Executive Summary

The subject property is a vacant lot located in a unit of the Woodlawn Hills subdivision. The applicant wishes to construct a new home on the vacant lot. The subject property is comprised of two lots 10 and 50 feet wide. The applicant wishes to build his home on the lot with 50 feet of width and construct his home along the property line. He will utilize the 10 foot lot as the side setback. The proposed construction will provide twice the required space for a side setback. The same outcome could be accomplished if the applicant chose to re-plat the property and remove the inner lot line.

### Subject Property Zoning/Land Use

<b>Existing Zoning</b>	<b>Existing Use</b>
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"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Vacant Lot
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**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
South	"C-2 AHOD" General Commercial Airport Hazard Overlay District	Meat Market
East	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
West	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The property is within the boundaries of the Near Northwest Plan and currently designated Low Density Residential in the future land use component of the plan. The subject property is located within the Donaldson Terrace Neighborhood Association. As such, the neighborhood association was notified and asked to comment.

**Criteria for Review**

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, these are represented by requiring minimum setbacks established to provide room for maintenance and fire separation. With the proposed variance from the required side setback there would still be ample room for maintenance without trespass and fire separation.**

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

**The special condition in this case is the current state of the subject property being divided into two lots. The smaller lot, with a 10 foot width, will meet the spirit of the side setback required by the UDC.**

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 the intent of the code rather than the specific requirement. In this case, the intent of the setback is to provide separation for maintenance, fire protection, and mitigation of water drainage. With the proposed site plan, the home will use the 10 foot width of the adjacent lot, within the subject property, to meet the spirit of the side setback.**

4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*

**The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District.**

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 requested variance from the side setback will not alter the 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.*

**The unique circumstance in this case is the subdivision of the subject property leaving 10 feet of the property undevelopable. This is not financial in nature or caused by the owner. In fact, the applicant wishes to utilize these 10 feet to meet the spirit of the side setback.**

**Alternative to Applicant's Request**

The applicant would have to redesign the site plan to meet the setback requirements, as described in 35-310.01.

**Staff Recommendation**

Staff recommends **APPROVAL of variance request in A-16-070** based on the following findings of fact:

1. The subject property is subdivided into two lots rendering the smaller lot undevelopable; 2. The applicant wishes to utilize the smaller lot to meet the spirit of the side setback which is twice as large as the setback required by the UDC; 3. The proposed construction will allow for maintenance without trespass, provide fire separation, and will not cause water runoff to adjacent properties.