



# City of San Antonio

## Legislation Details (With Text)

**File #:** 17-2425

**Type:** Zoning Case

**In control:** Board of Adjustment

**On agenda:** 4/3/2017

**Title:** POSTPONED: (Continued from 03/06/17) A-17-060: A request by GD Bar Family for 1) a 35 foot variance from the 60 foot front building setback in the Northeast Gateway Corridor Overlay District to allow a new building 25 feet from the front property line and 2) a 15 foot variance from the 20 foot side setback in the Northeast Gateway Corridor Overlay District to allow a building 5 feet from the side property line, located at 11110 N. IH 35. Staff recommends Denial with an Alternate Recommendation. (Council District 10)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Legistar Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** A-17-060

**Applicant:** GD Bar Family LP

**Owner:** GD Bar Family LP

**Council District:** 10

**Location:** 11110 North IH-35

**Legal:** Lot 40, NCB 14946

**Description:**

**Zoning:** "C-3R IH-1 AHOD" General Commercial Restrictive Alcohol Sales Northeast Gateway Corridor Airport Hazard Overlay District

**Case Manager:** Margaret Pahl, AICP, Senior Planner

### Request

A request for 1) a 35 foot variance from the 60 foot front building setback, as described in the Northeast Gateway Corridor District development standards, to allow a new building 25 feet from the front property line; and 2) a 15 foot variance from the 20 foot side setback, as described in the Northeast Gateway Corridor District development standards, to allow a building to be five (5) feet from the side property line.

### Executive Summary

The property is located on the southeast corner at the intersection of IH-35 North and Weidner Road. The site is a former gas station, currently used for vehicle sales. The proposed use will be a new 7-Eleven convenience store and gas station. The applicant has applied for building permits to construct the site as designed. The subject property is within the Exxon Subdivision Unit 7, which includes a 25 foot platted building setback,

however since the property is within the Northeast Gateway Corridor, the new building must also comply with the “IH-1” design standards, which consists of a minimum 60 foot front setback and 20 foot side setback. Other corridor overlay standards regarding landscaping, building materials, percentage of windows on front façade were also noted as denial comments during the permit review.

In reviewing the presentation of the proposed overlay ordinance from 2004, the Council emphasis was on limiting visual chaos and enhancing the City’s image as scenic and livable. This goal resulted in enhanced landscaping requirements, parking lot screening and larger building setbacks. Redevelopment is an opportunity to further these goals.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“C-3R IH-1 AHOD” General Commercial Restrictive Alcohol Sales Northeast Gateway Corridor Airport Hazard Overlay District	Car Sales

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	UZROW	IH-35
South	“I-1 IH-1 AHOD” General Industrial Northeast Gateway Corridor Airport Hazard Overlay District	Bank, Parking Lot
East	“I-1 IH-1 AHOD” General Industrial Northeast Gateway Corridor Airport Hazard Overlay District	Vacant Lot, Auto Dealers
West	“I-1 IH-1 AHOD” General Industrial Northeast Gateway Corridor Airport Hazard Overlay District	Gas Station, Used Auto Dealer, AT&T Facility

**Comprehensive Plan Consistency/Neighborhood Association**

The property is not within the boundaries of a sector or neighborhood plan and does not have future land use designation. The subject property is not located within the boundaries of a registered neighborhood association.

**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.*

**In this case, the public interest is represented by setback requirements to ensure an open streetscape and uniform and safe development within the City. The structure will meet the platted front setback of 25 feet, which is adequate distance from the right-of-row and will not obscure the line of vision for motorists.**

The requested variance to the minimum 20 foot side setback to allow a new building within 5 feet of the

property line is contrary to the public interest and should be increased for a variety of reasons. The neighboring property is vacant and will soon become a pad site, facing the same setback requirements as described above. A 10 foot setback would be more reasonable, alleviating fire code issues regarding construction methods and allowing for some stormwater percolation.

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

**The special condition present in this are the lot dimensions in conjunction with the “IH-1” setback requirements. The irregularly shaped lot is small and the required front setback would significantly limit the size and location of the building.**

However, the site is vacant and design could accommodate an adequate 10 foot side setback, rather than the proposed 5 foot version. One of the building denial comments is to submit the details of a two hour fire rated assembly, which would not be required if it were 10 feet away from the property line.

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

**The spirit of the ordinance will be observed as the building will still provide an adequate distance from the street.**

The intent of the side setback is to allow fire separation and room for maintenance without trespass. While 5 feet is adequate in residential properties, it is more problematic in commercial structures. A ten foot variance would be more consistent with balancing competing interests.

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 variances will not authorize the operation of a use on the subject property other than those specifically permitted in the “C-3R IH-1 AHOD” General Commercial Restrictive Alcohol Sales Northeast Gateway Corridor 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 front setback variance will not injure adjacent property owners as the proposed 25 foot setback provides enough distance for required landscaping.**

The requested side setback variance however could injure adjacent properties by reducing the potential construction materials available to them in the future. It also could create more visual clutter, a goal the setback was established to reduce.

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 “IH-1” setback requirements impose significant design constraints, especially on properties such as this, which are considerably smaller in lot size. The 60 foot setback would reduce the developable space on the lot to 80 feet, which is not suitable to build a convenience store.**

It is difficult to substantiate the same hardship for the side setback variance. The dimension along this length is 300 feet and an extra 5 feet can be accommodated to provide a 10 foot setback.

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

The applicant would need to construct to meet the "IH-1" corridor setbacks.

### **Staff Recommendation**

Staff recommends **APPROVAL of the front setback variance in A-17-060** based on the following findings of fact:

1. The requested setbacks provide adequate room for maintenance without trespass;
2. The request will still provide a 25 foot front setback, which is an acceptable setback and will not visually impair motorists along the frontage road.

Staff recommends **DENIAL of the requested side setback variance**, with an alternate recommendation of a 10 foot variance to allow the new building 10 feet from the property line, based on the following findings of fact:

1. A 10 foot setback will satisfy fire code provisions and provide room for maintenance;
2. A 10 foot side setback will reduce visual clutter.