



# City of San Antonio

## Legislation Details (With Text)

**File #:** 15-4122

**Type:** Staff Briefing - Without Ordinance

**In control:** Board of Adjustment

**On agenda:** 7/20/2015

**Title:** A-15-114: A request by David Cupit for a ten foot variance from the minimum 20 foot rear yard setback to allow a 10 foot rear yard setback, located at 10715 & 10723 Tybalt Trail. (Council District 9)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A-15-114 legis

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

**Case Number:** A-15-114

**Applicant:** David Cupit

**Owner:** Meritage Homes

**Council District:** 9

**Location:** 10715 & 10723 Tybalt Trail

**Legal Description:** Lots 21 & 22, Block 13, NCB 11729

**Zoning:** "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District

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

### Request

A request for a ten foot variance from the minimum 20 foot rear yard setback, as described in Table 35-310-1, to allow a 10 foot rear yard setback on two lots.

### Executive Summary

The subject property is located in what had been a paper subdivision originally recorded in 1950. A paper subdivision is one where the plat has been recorded but the street and utilities were never constructed and therefore, the lots were unbuildable. The original plat was a typical grid subdivision, but an apartment project was built blocking several of the streets potential future connection with Lockhill Selma. In 2014, the applicant petitioned the City Council to vacate portions of the platted, but unimproved, streets to facilitate the addition of 72 new single-family homes in the area. Fair market value was paid for this property. A recent amending plat rearranged the street layout to address the more recent development patterns around the vacant land. Most of the lots were platted with 110 feet minimum depth, but a couple of the lots were platted with only 90 feet in depth. The applicant is seeking a variance to reduce the rear yard setback for these two lots.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Vacant

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwellings
South	“MF-33 AHOD” Multi--Family Airport Hazard Overlay District	Vacant
East	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Vacant
West	“MF-33 AHOD” Multi-Family Airport Hazard Overlay District	Vacant

**Comprehensive Plan Consistency/Neighborhood Association**

The property is located within the boundaries of the San Antonio International Airport Vicinity Plan and currently designated as Low Density Residential in the future land use component of the plan. The subject property is not located within the boundaries of any 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.*

The public interest is defined as the general health, safety, and welfare of the public. **This property has remained vacant for over 60 years with paper streets preventing its redevelopment. The setback reduction on two of the 72 lots is well within the public interest.**

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

**The special circumstance present on the subject property is that the cul-de-sac wraps around the front of these two lots reducing their depth. Therefore this unique circumstance makes literal enforcement an unnecessary hardship.**

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

**The variance process was created to address those uniquely shaped parcels for which the minimum standards are particularly challenging. These two lots are exactly those types of lots and the spirit will be observed by providing the requested variance.**

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-5 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 applicant is constructing 70 lots with the minimum setback of 20 feet and is seeking a variance on the two most awkward shaped lots within the project. These two lots are not adjacent to any established lots in the vicinity, but instead share a rear property line with 3 other lots which will comply with the 20 foot setback.**

*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 applicant is requesting a reduced rear setback for 2 of the 72 homes to be built. The buyers will have a choice to accept the smaller yard or buy a different lot.**

#### **Alternative to Applicant’s Request**

The applicant could construct smaller houses on these two lots.

#### **Staff Recommendation**

Staff recommends **APPROVAL** of **A-15-114** based on the following findings of fact:

1. These two lots are awkward shaped lots on a cul-de-sac and warrant special consideration.