



# City of San Antonio

## Legislation Details (With Text)

**File #:** 19-2369

**Type:** Zoning Case

**In control:** Board of Adjustment

**On agenda:** 3/4/2019

**Title:** BOA-19-10300006: A request by Sean Dykes for 1) a 3' variance from the 5' side setback requirement to allow for a new house to be 2' away from the side property line and 2) a 1,270 square foot variance from the minimum 6,000 square foot lot size to allow a lot size to be 4,730 square feet, located at 163 East Lambert Street. Staff recommends Approval. (Council District 5)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. BOA-19-10300006 Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** BOA-19-10300006

**Applicant:** Sean Dykes

**Owner:** Sean Dykes

**Council District:** 5

**Location:** 163 East Lambert Street

**Legal:** The West 43 feet of Lot 15, Block 4, NCB 2934

**Description:**

**Zoning:** "R-6 MLOD-3 MLR-2 AHOD" Residential Single-Family  
Lackland Military Lighting Overlay Military Lighting Region 2  
Airport Hazard Overlay District

**Case Manager:** Debora Gonzalez, Senior Planner

### Request

A request for 1) a 2' variance from the 5' east side setback requirement, as described in Section 35-371(a), to allow for a new house to be 3' away from the side property line and 2) for an 1,270 square foot variance from the minimum 6,000 square foot lot size, as described in section 35-310.01, to allow a lot size to be 4,730 square feet.

### Executive Summary

The subject property is located at 163 East Lambert Street at the intersection with Dowdy Street, located in the Lone Star District. According to BCAD, the subject property is 4,730 square feet, which fails to meet the 6,000 square foot minimum lot size for its zoning district. The applicant is seeking a variance to reduce the minimum

lot size requirement by 1,270 square feet to allow for a Certificate of Determination to be issued. The subject property was an easement owned by the city until 2015. The applicant is also requesting the side setback be reduced to 3’ to allow for a 16’ wide new house to be built. This is a district with multiple irregular lots, many of which fail to meet the minimum lot sizes.

**Code Enforcement History**

No Code Enforcement history exists on the property.

**Permit History**

No permit history exists on the property.

**Subject Property Zoning/Land Use**

<b>Existing Zoning</b>	<b>Existing Use</b>
“R-6 MLOD-3 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Vacant Land

**Surrounding Zoning/Land Use**

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“R-6 MLOD-3 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling
South	“R-6 MLOD-3 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling
East	“R-6 MLOD-3 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling
West	“R-6 MLOD-3 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The property is within the boundaries of the Lone Star Community Plan and is designated “Low Density Residential” in the future land use component of the plan. The subject property is located within the boundaries of the Lone Star Neighborhood Association. As such, they were notified and asked to comment.

**Street Classification**

East Lambert Street is classified as a Local Street.

### **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, the public interest is represented by minimum lot sizes that provide for consistent development within the neighborhood. The “R-6” Residential Single-Family District is intended for single-family dwelling uses on a minimum lot size of 6,000 square feet. The side setback reduction will provide room for maintenance without trespass and accessibility to light air and open space. The proposed project of detached single-family dwelling meets the intentions of the zoning district and is not contrary to the public interest.**
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*  
**The literal enforcement of the ordinance would not allow the owner of the property to develop the lot as intended. The lot qualifies for a Certificate of Determination (COD) due to the property having an antiquated plat. In order for new construction, the property must be platted, but because the lot qualifies for a COD the applicant will not need to replat the lot. However, a COD cannot be granted, because the property does not meet the minimum 6,000 square foot lot size requirement, and a single-family dwelling cannot be constructed unless a variance is granted.**
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*  
**Granting the request will result in substantial justice, because the proposed development of detached single-family dwellings advances the efforts of the zoning designation. The variance will promote infill development on this lot.**
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.*  
**The variance will not authorize the operation of a use other than those uses specifically authorized in the zoning 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 surrounding single-family dwellings will not be injured by granting the variance, because the lot size will not create incompatible development, nor will it detract from the character of the community. The character of the surrounding neighborhood will not be altered and the proposed development will be cohesive with the existing pattern of development within the immediate neighborhood.**
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 condition present is that the lot has never been platted and in order to construct on the property there must be a plat exception approved. A plat exception cannot be approved unless a variance is granted to allow for a smaller lot size to develop single-family dwelling units.**

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

Denial of the requested variance would result in the applicant not being able to develop on this parcel.

**Staff Recommendation**

Staff recommends **APPROVAL** of the variance in **BOA-19-10300006**, based on the following findings of fact:

1. The property is part of an antiquated plat and this is of no fault of the owner, and;
2. The surrounding dwellings are unlikely to be negatively affected by the requested variances, and these requests will not alter the essential character of the district.