



# City of San Antonio

## Legislation Details (With Text)

**File #:** 20-6385  
**Type:** Staff Briefing - Without Ordinance  
**In control:** Board of Adjustment

**On agenda:** 11/2/2020

**Title:** BOA-20-10300100: A request by Randy Burt for a 9” variance from the required 5’ side setback to allow a new residential structure to be 4’3” away from the side property line, located at 931 Blue Landing. Staff recommends Approval. (Council District 3) (Azadeh Sagheb, Planner (210) 207-5407, Azadeh.Sagheb@sanantonio.gov, Development Services Department)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** BOA-20-10300100  
**Applicant:** Randy Burt  
**Owner:** Lennar Homes of Texas  
**Council District:** 3  
**Location:** 931 Blue Landing  
**Legal Description:** Lot 20, Block 31, NCB 11166  
**Zoning:** “R-5 AHOD” Residential Single-Family Airport Hazard Overlay District  
**Case Manager:** Azadeh Sagheb, Planner

### Request

A request for a 9” variance from the required 5’ side setback, as described in Section 35-310.01, to allow a new residential structure to be 4’3” away from the side property line.

### Executive Summary

The subject property is located at 931 Blue Landing, between Mitchell Lake, East of the US Highway 281 South, and 40 feet away from the Mission Del Lago Golf Course. The neighborhood is under construction and the surrounding area is predominantly occupied by residential properties. The subject property is within the Mission del Lago Tax Increment Reinvestment Zone (TIRZ).

The applicant is seeking a minor variance of 9” from the 5’ side setback requirement on the east side property line. The home is under construction and is nearly complete. The applicant states that there was an error made

by the foundation company resulted in a 9” extension of the house over the side setback.

**Code Enforcement History**

There is no Code Enforcement record for this property.

**Permit History**

There is a permit for a new one-story single-family residence with an attached two-car garage, covered patio, and the fence.

**Clear Vision Review**

A review of Clear Vision is not required for this request.

**Zoning History**

The area was annexed under Ordinance 68292, dated December 31, 1988 and was originally zoned as “Temp R -1” Temporary Single-Family Residence District. The property rezoned by Ordinance 69286, dated April 13, 1989 to “R-A” Residence-Agriculture District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property converted to the “NP-10” Neighborhood Preservation District. The subject property was converted by Ordinance 2011-05-19-0427, dated May 19, 2011 into the current “R-5” Single-Family Residential District.

**Subject Property Zoning/Land Use**

<b>Existing Zoning</b>	<b>Existing Use</b>
“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Residential

**Surrounding Zoning/Land Use**

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Residential
South	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Residential
East	“R-5 PUD” Residential Single-Family Planned Unit Development District	Residential
West	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Residential

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is located within the Heritage South Sector Plan and is designated as “Suburban Tier” in the future land use component of the plan. The subject property is not within the boundaries of a registered neighborhood association.

### Street Classification

Blue Landing 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 variance is not contrary to the public interest as the applicant is constructing a single-family house on a currently vacant lot., which is surrounded by single-family residential. Therefore, the requested variance is in harmony with the uses in the community.**
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*  
**Staff finds that any special conditions that, if enforced, would result in an unnecessary hardship. The requested variance is minor, and the home is almost complete, so the literal enforcement of the ordinance would create financial hardship associated with the demolition and rebuilding process.**
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 requirement rather than the strict letter of the law. The request to reduce the side setback by 9” would still allow these standards to be met. The requested variance will not be noticeable, and although it may not adhere to the code requirement, it will allow adequate space between the house and right-side property line.**
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 requested variance will not permit a use not authorized within the “R-5” Single-Family 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 request to reduce the side setback do not pose a risk of substantially injuring the use of adjacent properties. It will not alter the integrity of the 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.*  
**Staff finds that the minor size of setback shall warrant the granting of this request. If the variance is approved, adequate space will be reserved for maintenance of the structure without trespass, stormwater controls, and adequate fire separation.**

### Alternative to Applicant’s Request

The alternative to the applicant’s request is to conform to the setbacks set forth in the Unified Development Code, Section 35-310.01.

### Staff Recommendation

Staff recommends **APPROVAL** of **BOA-20-10300100**, based on the following findings of fact:

1. The requested variance will not detract from the character of the district, and;
2. Adequate space will be utilized to prevent stormwater runoff, property and structure maintenance without trespass.