



# City of San Antonio

## Legislation Details (With Text)

**File #:** 17-4738

**Type:** Zoning Case

**In control:** Board of Adjustment

**On agenda:** 8/21/2017

**Title:** A-17-153: A request by Martin Gutierrez for 1) for a 55.5 foot variance from the "GC-3" 60 foot front setback and 2) a 15 foot variance from the "GC-3" 20 foot side setback and 3) a request for 14.5 foot variance from the 15 foot "Type B" bufferyard along the front property line to allow a commercial building, located at 26587 US Highway 281 North. Staff recommends Approval. (Council District 9)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. BOA17-153 Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** A-17-153

**Applicant:** Martin Gutierrez

**Owner:** Just Bleurayne, LLC

**Council District:** 9

**Location:** 26587 US Highway 281 North

**Legal:** Lot 1, Block 1, NCB 4864

**Description:**

**Zoning:** "C-3 GC-3 MLOD-1 ERZD" General Commercial US 281 North Gateway Corridor Camp Bullis Military Lighting Overlay Edwards Recharge Zone District

**Case Manager:** Shepard Beamon, Senior Planner

### Request

A request for 1) a 55.5 foot variance from the "GC-3" 60 foot front setback, as described in the US 281 North Gateway Corridor District Plan, and 2) a 15 foot variance from the "GC-3" 20 foot side setback, as described in the US 281 North Gateway Corridor District Plan, and 3) a request for a 14.5 foot variance from the 15 foot "Type B" bufferyard along the front property line, as described in Section 35-510, to allow a commercial building.

### Executive Summary

The applicant is requesting the variances to redevelop an existing automotive repair shop. Previously, the automotive repair shop was located on 42,775 square feet of property; however, the Texas Department of Transportation acquired 36,336 square feet of the subject property to allow for future road expansion, leaving 6,440 square feet to develop on. The proposed new development will consist of a 1,585 square foot, four bay

shop building with a detached 265 square foot office building. There will be adequate parking for the business. The US 281 North Gateway Corridor District Plan places restrictions on building setbacks. These restrictions were intended for much larger lots. The plan calls for a 60 foot front setback and a 20 foot side setback. The lot measures a maximum of 52 feet deep, less than the 60 foot front setback, and a maximum of 132 feet wide. Further, the Highway 281 arterial triggers a 15 foot bufferyard along the front of the property. The relocation of the business will result in the loss of four bays from the original automotive shop.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“C-3 GC-3 MLOD-1 ERZD” General Commercial US 281 North Gateway Corridor Camp Bullis Military Lighting Overlay Edwards Recharge Zone District	Future Auto Repair

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“C-3 GC-3 MLOD-1 ERZD” General Commercial US 281 North Gateway Corridor Camp Bullis Military Lighting Overlay Edwards Recharge Zone District	Self-Storage
South	“C-2 GC-3 MLOD-1 ERZD” Commercial US 281 North Gateway Corridor Camp Bullis Military Lighting Overlay Edwards Recharge Zone District	Vacant Commercial
East	Un-zoned Right-of-Way	US Highway 281 North
West	“C-3 GC-3 MLOD-1 ERZD” General Commercial US 281 North Gateway Corridor Camp Bullis Military Lighting Overlay Edwards Recharge Zone District	Strip Mall

**Comprehensive Plan Consistency/Neighborhood Association**

The property is within the boundaries of the North Sector Plan and currently designated as Regional Center in the future land use component of the plan. 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.*

**The public interest is defined as the general health, safety, and welfare of the public. The proposed development will be a condensed operation of an existing business, which previously, had no negative impact on the surrounding area. The reduction of the required setbacks and bufferyard will not harm the well-being of the general public.**

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

**Literal enforcement of the ordinance would result in an unnecessary hardship as the site is compact and difficult to develop. The relocation of the building will result in the loss of four bays. The enforcement of the required setback and bufferyard would result in additional loss of bays for auto repair and would ultimately result in the cessation of the business.**

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

**In this case, the intent of setback and bufferyard requirements is to protect motorists from distraction, prevent visual clutter, and provide an open streetscape. Unfortunately, to meet the requirements results in the in the demise of the longevity of the business. The intent of the setbacks and bufferyard were intended for larger lots along Highway 281 and should not be considered applicable to lots as small as the subject property.**

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-3 GC-3 MLOD-1 ERZD” General Commercial US 281 North Gateway Corridor Camp Bullis Military Lighting Overlay Edwards Recharge Zone 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.*

**As there are only commercial properties along US Highway 281, the requested variances are unlikely to injure the rights of the adjacent property owners. Further, the proposed development is unlikely to create a distraction to motorists along the major arterial.**

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 existing on the property is the reduction of the property due to TxDOT acquiring a significant amount of land for future road expansion. The existing building was a conforming structure prior to the 281 Gateway Corridor and the TxDOT acquisition. The reduction of the property is not the result of the owner. The business is losing a significant amount of usable space and with the setbacks and bufferyard imposing further restrictions on the remaining land, there is no feasible way the business can be built and operate. If imposed, the front setback, alone, would prohibit any building being built as the setback is larger than the depth of the lot.**

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

The owner would not be able to develop the lot.

### **Staff Recommendation**

Staff recommends **APPROVAL** of the variances in A-17-153, based on the following findings of fact:

1. There is no way to develop the remaining portion of the lot; and

2. The reduction in developable space is not the result of the owner; and
3. The request will not negatively impact any surrounding property owners; and
4. The enforcement of requirements could result in the cessation of the existing business.