



# City of San Antonio

## Legislation Details (With Text)

**File #:** 17-5661

**Type:** Zoning Case

**In control:** Board of Adjustment

**On agenda:** 10/16/2017

**Title:** A-17-187: A request by Aarzoo Food Inc for 1) a 25 foot variance from the 30 foot rear setback to allow a five foot rear setback and 2) a request for a 14 foot 11 inch variance from the Type C 15 foot rear bufferyard to allow a one (1) inch rear bufferyard and 3) a request for a 14 foot 11 inch variance from the Type B 15 foot front bufferyard to allow a one (1) inch front bufferyard, located at 1515 Castroville Road. Staff recommends Denial with an Alternate Recommendation. (Council District 5)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. 17-17-187 Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** A-17-187

**Applicant:** Aarzoo Food Inc

**Owner:** Aarzoo Food Inc

**Council District:** 5

**Location:** 1515 Castroville Road

**Legal** NW IRR 103.2 Feet of 15, 16, and 17, Block 16, NCB 8096

**Description:** and Lot 8, NCB 8134

**Zoning:** "C-3R AHOD" General Commercial Restrictive Alcoholic  
Sales Airport Hazard Overlay District

**Case Manager:** Oscar Aguilera, Planner

### Request

A request for 1) a 25 foot variance from the 30 foot rear setback, as described in Table 35-310, to allow a five foot rear setback and 2) a request for a 14 foot 11 inch variance from the Type C 15 foot rear bufferyard, as described in Section 35-510, to allow a one (1) inch rear bufferyard and 3) a request for a 14 foot 11 inch variance from the Type B 15 foot front bufferyard, as described in Section 35-510, to allow a one (1) inch front bufferyard.

### Executive Summary

The subject property has served as a convenience store and gasoline filling station since 1956. The property was acquired by the current owner on April 28, 2017 and he wants to make some improvements to the building, including an addition. The addition will be aligned with the existing building. Currently the existing building sits five feet from the rear property line.

**Subject Property Zoning/Land Use**

<b>Existing Zoning</b>	<b>Existing Use</b>
"C-3R AHOD" General Commercial Restrictive Alcoholic Sales Airport Hazard Overlay District	Convenience Store and Gasoline Filling Station

**Surrounding Zoning/Land Use**

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	"MF-33 AHOD" Multi-Family Airport Hazard Overlay District, "R-4" Residential Single-Family Airport Hazard Overlay District	Apartments, Vacant Residential
South	"C-2NA AHOD" Commercial Nonalcoholic Sales Airport Hazard Overlay District, "R-6" Residential Single-Family Airport Hazard Overlay District	Laundromat, Restaurant, Single -Family Dwelling
East	"C-3R AHOD" General Commercial Restrictive Alcoholic Sales Airport Hazard Overlay District	Restaurant
West	"R-6" Residential Single-Family Airport Hazard Overlay District, "R-4" Residential Single-Family Airport Hazard Overlay District	Vacant Commercial, Vacant Residential

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is within the boundaries of the West Sector Plan and it is currently designated General Urban Tier in the future land use component of the plan. The subject property is within the two hundred feet of the Westwood Square Neighborhood Association. As such, they were notified and asked to comment.

**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 represented by minimum setbacks and buffers that provide adequate room for the public interest is represented by the setbacks and buffers to ensure that neighboring property rights are not violated. The site has had a service station with a convenience store on it since 1956. The owner is proposing an addition. The addition will be aligned with the existing building. Currently the existing building sits five feet from the rear property line. The existing building has not presented a danger or a nuisance to the public interest since its construction in 1956 and the addition will be aligned with the existing building. The multi-family property placed parking stalls and private vehicle circulation along the shared property line, creating an approximately 50 foot buffer between the residential buildings and the proposed addition. Therefore, granting the variance for a five foot rear setback will not be contrary to the public interest.**

Staff cannot support the near elimination of the front and rear bufferyard. Placing three foot bufferyard along the rear will further help to separate the two uses. Similarly, staff recommends approval of a three foot bufferyard along the front property line to balance the owners need to preserve space, but to enhance the character of the corridor, too.

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

**Literal enforcement of the 30 foot rear setback would make the addition impossible. The owner will be unable to build the addition and will be unable to provide the required parking since the site is small.**

A literal enforcement of the front and rear buffers would also prevent the addition, and some relief is merited. However, there is no special condition that warrants the near elimination of both. Staff supports a three foot front and rear buffer to enhance the corridor and provide more separation between uses.

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 requirements rather than the strict letter of the law. The intent of the setbacks is to reduce conflicts between different land uses. In this case, the two land uses have coexisted together since the 1950's. The existing parking and vehicular circulation for the multi-family lot is immediately adjacent to the proposed building addition, therefore reducing noise and other negative impacts between the land uses.**

Staff recommends a three foot bufferyard for the front and rear which meets the needs of the property owner and enhances the streetscape.

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 "C-3R AHOD" General Commercial Restrictive Alcoholic Sales 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 seeking a new addition to an existing convenience store building, originally constructed in 1956. The new project intends to better serve the community and improve the appearance of the neighborhood. The effect of the addition, built within setbacks, is mitigated by the location of the multi-family parking and vehicular circulation.**

The bufferyard chapter was written to provide increased separation and to beautify our urban streetscapes. Staff is supportive of a three foot front and rear bufferyard.

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.

**Literal enforcement of the 30 foot rear setback would make the addition impossible. The business has a need to grow and the owner has struggled to find a design that meets all development codes. This is not merely financial in nature, or is it the fault of the owner of the property.**

Staff is supportive of a three foot front and rear bufferyard to provide some green screening between uses and

to enhance the corridor.

**Alternative to Applicant's Request**

The applicant could adjust the structure and built to a three foot side setback.

**Staff Recommendation**

Staff recommends **APPROVAL of the setback variance request in A-17-187** based on the following findings of fact:

1. The 30 foot setback would prevent the addition, entirely; and;
2. The immediate adjacent use has located parking and traffic circulation for the apartment complex along the property line.

Staff recommends **DENIAL of the requested variance to the bufferyard requirement with an alternate bufferyard variance to allow a three foot front and rear bufferyard in A-17-187** based on the following findings of fact:

1. There is no special condition that warrants the near elimination of both the front and rear bufferyard; and;
2. A three foot bufferyard meets the needs of the property owner and enhances the corridor.