



# City of San Antonio

## Legislation Details (With Text)

**File #:** 21-2447

**Type:** Staff Briefing - Without Ordinance

**In control:** Board of Adjustment

**On agenda:** 4/5/2021

**Title:** BOA-21-10300019: A request by Xabula LLP for 1) a 10'6" variance from the minimum 20' rear setback requirement to allow the new addition to be 9'6" away from the rear property line, and 2) a 1'10" variance from the minimum 5' side setback requirement to allow the structure to be 3'2" away from the side property line, located at 3022 El Paso Street. Staff recommends Approval. (Council District 5) (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-21-10300019

**Applicant:** Xabula LLP

**Owner:** Xabula LLP

**Council District:** 5

**Location:** 3022 El Paso Street

**Legal Description:** Lot 3, Block 3, NCB 6105

**Zoning:** "R-4 MLOD-2 MLR-2 AHOD" Residential Single-Family  
Lackland Military Lighting Overlay Military Lighting  
Region 2 Airport Hazard Overlay District

**Case Manager:** Azadeh Sagheb, Planner

### Request

A request for 1) a 10'6" variance from the minimum 20' rear setback requirement, as described in Section 35-310.01, to allow the new addition to be 9'6" away from the rear property line, and 2) a 1'10" variance from the minimum 5' side setback requirement, also described in Section 35-310.01, to allow the structure to be 3'2" away from the side property line.

### Executive Summary

The subject property is located at 3022 El Paso Street, south of Elmendorf Park and Zarzamora Creek and as such the whole lot is located within the 100 Year Flood Plain. The applicant will need to apply for a flood plain

permit through the Public Works Department and must meet all flood plain requirements. The neighborhood is predominantly surrounded by single-family properties.

The applicant built a 160-square foot new addition at the rear of the primary residence to expand the existing living area that encroached 10'6" into the rear setback. There exists an enclosed gas water heater closet which is 3'2" away from the side property line. And the applicant is requesting for the side setback variance for that.

There is a code violation record on file as the applicant did not obtain the required permits to remodel the primary structure, and to build the new addition.

### **Code Enforcement History**

There is a Code Violation on record dated 06/16/2020. Plumbing, Mechanical and Electrical investigations are pending inspections.

### **Permit History**

There is no related permit on file.

### **Clear Vision Review**

The Clear Vision standard review is not required.

### **Zoning History**

The subject property is located within the original 36 square miles of the City of San Antonio and was originally zoned as "B" Residence District. The property was rezoned to "R-7" Small Lot Residence District by Ordinance 75720, dated April 30, 1992. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property converted from "R-7" Small Lot Residence District to the current "R-4" Residential Single-Family District.

### **Subject Property Zoning/Land Use**

<b>Existing Zoning</b>	<b>Existing Use</b>
"R-4 MLOD-2 MLR-2 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Residential

### **Surrounding Zoning/Land Use**

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	"R-4 MLOD-2 MLR-2 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Park

South	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Residential
East	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Residential
West	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Residential

### **Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Guadalupe Westside 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 Prospect Hill Neighborhood Association. As such, they were notified and asked to comment.

### **Street Classification**

El Paso 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 requested for the side setback is not contrary to the public interest as the new addition is 9’6” away from the rear property line. The request for side setback reduction by 1’10” to have the water heater enclosed would not cause any adverse effect.**

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 unnecessary hardship. The new addition has already been built and it seems having a lesser rear setback is common within the community. If the variances are not granted both structures would have to be demolished.**

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 defined as the intent of the code, rather than the exact letter of the law. The intent of the setbacks is to provide spacing between neighboring structures. Both constructed structures will maintain adequate spacing from the property line which will observe the spirit of the ordinance.**

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.*

**No uses other than those permitted within the district will be allowed with this variance.**

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 does not pose a risk of substantially injuring the use of adjacent properties and does not seem likely to alter the essential character of the district as the new addition and water heater closet will maintain 9'6" and 3'2" setbacks, respectively.**

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 circumstances existing on the property were not created by the owner of the property and are not merely financial.**

### **Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the Setback Dimensions of the UDC Sections 35-310.01.

### **Staff Recommendation**

Staff recommends **Approval** of the variances in **BOA-21-10300019** based on the following findings of fact:

1. The new addition and water heater closet will not put the neighborhood out of character, and;
2. Both structures allow adequate space for maintenance without trespass, and keep the character of the home unchanged, and;
3. There is plenty of space between the neighboring structures.