



# City of San Antonio

## Legislation Details (With Text)

**File #:** 21-2961

**Type:** Staff Briefing - Without Ordinance

**In control:** Board of Adjustment

**On agenda:** 4/19/2021

**Title:** BOA-21-10300032: A request by Carmen Groth for a 10' variance from the minimum 20' rear setback requirement to allow an addition to be 10' away from the rear property line, located at 13066 North Hunters Circle. Staff recommends Approval. (Council District 8) (Kayla Leal, Senior Planner (210) 207-0197, kayla.leal@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-21-10300032
Applicant:	Carmen Groth
Owner:	Carmen Groth
Council District:	8
Location:	13066 North Hunters Circle
Legal Description:	Lot 16, Block 4, NCB 13905
Zoning:	"R-6 MLOD-1 MLR-2 AHOD" Residential Single Family Camp Bullis Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Case Manager:	Kayla Leal, Senior Planner

### Request

A request for a 10' variance from the minimum 20' rear setback requirement, as described in Section 35-310.01, to allow an addition to be 10' away from the rear property line.

### Executive Summary

The subject property is located along North Hunters Circle and the applicant has constructed an addition to the structure that is 10' from the rear property line. The property owner did apply for a residential building permit for the addition. At permit intake the reviewer missed the rear setback issues and issued the permit in error. The structure was in final stages of interior finish out when the rear setback issue was discovered. Code Enforcement investigated the construction site and the addition, which is when the setback issue was observed.

The applicant was informed of the error and decided to present her case to the Board.

### **Code Enforcement History**

Code Enforcement conducted a permit investigation in March of 2021, but No Violation was determined.

### **Permit History**

A Residential Building Permit was issued for the proposed addition in April of 2020.

### **Zoning History**

The subject property was annexed into the City of San Antonio on April 21, 1980 by Ordinance 51924 and was zoned Temporary "R-1" Residence District. The zoning converted from Temporary "R-1" to the current "R-6" Residential Single Family District upon adoption of the 2001 Unified Development Code (Ordinance 93881, dated May 3, 2001).

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

<b>Existing Zoning</b>	<b>Existing Use</b>
"R-6 MLOD-1 MLR-2 AHOD" Residential Single Family Camp Bullis Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-family dwelling

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

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	"R-6 MLOD-1 MLR-2 AHOD" Residential Single Family Camp Bullis Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-family dwelling
South	"R-6 MLOD-1 MLR-2 AHOD" Residential Single Family Camp Bullis Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-family dwelling
East	"R-6 MLOD-1 MLR-2 AHOD" Residential Single Family Camp Bullis Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-family dwelling

West	“R-6 MLOD-1 MLR-2 AHOD” Residential Single Family Camp Bullis Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-family dwelling
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### **Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the San Antonio International Airport Vicinity Community Plan and is designated “Low Density Residential” in the future land use component of the plan. The subject property is located within the Hunters Creek Neighborhood Associations and as such they were notified of the case.

### **Street Classification**

North Hunters Creek is classified as a Local Road.

### **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 property owner has maintained a 10’ rear setback and has more than 20’ between the addition and the northern side property line.**

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 applicant did obtain a residential building permit before construction, and if a literal enforcement of the ordinance was applied she would need to remove about 10’ of the mostly-constructed addition.**

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 rear setbacks is to allow for adequate space between structures. It appears as though the addition is about 20’ from the structure on the abutting property to the rear.**

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 allowed 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 a portion of the rear 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. The structure on the property to the rear appears to have a similar setback for a covered patio.**

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 the unique circumstances existing on the property were not created by the plight of the owner and are not merely financial as a residential building permit was issued in March.**

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

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

### **Staff Recommendation**

Staff recommends **Approval** in **BOA-21-10300032** based on the following findings of fact:

1. The proposed structure will be set back 10'; and
2. There are other structures in the surrounding area with similar setbacks.