



# City of San Antonio

## Legislation Details (With Text)

**File #:** 21-4354

**Type:** Staff Briefing - Without Ordinance

**In control:** Board of Adjustment

**On agenda:** 6/21/2021

**Title:** BOA-21-10300055: A request by Sara Gerrish for 1) a 15' 6" variance to the minimum 20' rear setback to allow the structure to be 4'6" from the rear property line and 2) a 1'4" variance to the minimum 5' side setback to allow the structure to be 3'8" from the side property line, and 3) a 2,130 square foot variance to the 6,000 square foot minimum lot size to allow a lot to be 3,870 square feet. Staff recommends Approval. (Council District 5) (Michael Pepe, Senior Planner, (210) 207-8208, Michael.Pepe@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-21-10300055
Applicant:	Sara Gerrish
Owner:	Sara Gerrish
Council District:	5
Location:	107 Peters Court
Legal Description:	Lot S IRR 47.8 ft of N IRR 135.2 ft of 5, NCB 15
Zoning:	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager:	Michael Pepe, Senior Planner

### Request

A request for 1) a 15' 6" variance to the minimum 20' rear setback, as required in Sec 35-310.01, to allow the structure to be 4' 6" from the rear property line and 2) a 1'4" variance to the minimum 5' side setback, as required in Sec 35-310.01, to allow the structure to be 3' 8" from the side property line, and 3) a 2,130 square foot variance to the 6,000 square foot minimum lot size to allow a lot to be 3,870 square feet.

### Executive Summary

The subject property is located mid-block along Peters Court. The owner is applying for a rear and side setback variance to construct an addition towards the rear property line. Directly behind the property is a private street

for a townhome complex. Upon inspection, staff also found the property is smaller than the minimum lot size requirement for “R-6”, which is 6,000 feet. This property was made a non-conforming lot of record by a large area rezoning in 2006. The neighborhood is generally small lot, zero lot line townhomes.

### **Code Enforcement History**

There is no code enforcement case for the subject property.

### **Permit History**

There are no relevant permits pulled for the property.

### **Zoning History**

The subject property is in the original 36 square miles of San Antonio and was originally zoned “L” First Manufacturing District. The zoning converted from “L” to the “I-1” General Industrial District upon adoption of the 2001 Unified Development Code (Ordinance 93881, dated May 3, 2001). The property was rezoned from “I-1” to “R-6” Residential Single-Family District by Ordinance 2006-12-15-1441 dated December 14, 2006.

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

<b>Existing Zoning</b>	<b>Existing Use</b>
“R-6 AHOD” Residential Single-Family 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 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-family dwelling
South	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-family dwelling
East	“RM-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Townhome Complex
West	“MF-25 AHOD” Multifamily Airport Hazard Overlay District	Townhome Complex

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

The subject property is in the Downtown Regional Center Plan and is designated “Medium Density Residential” in the future land use component of the plan. The property is located within the Lone Star Neighborhood Association and as such were notified of the request.

### **Street Classification**

Peters Court 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. In this case, the variance being requested is for a building encroachment into the rear and side setback and for a reduction in the minimum lot size. The requests do not seem to be contrary to the public interest.**

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. By imposing a literal enforcement, the full use of the property would be limited, due to its size.**

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. By reducing the setback to 4'6", the applicant will maintain over 30' between structures. The variance to the side setback would leave over 14' between structures, which is not uncommon in this neighborhood.**

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 and side setbacks do 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. This property is located within an older neighborhood where it is common to find dwellings built near the property line to utilize most of the small lots.**

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 applicant is requesting the variance to receive a permit for an addition. The unique circumstances existing on the property were not created by the owner, because the high minimum lot size was placed on the property by the City and that the general lot size is a special condition of the lot and area.**

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

The alternative to the applicant's request is to conform to the Lot & Setback Dimensions and Lot Layout Regulations of the UDC Sections 35-310.01 and 35-515.

**Staff Recommendation**

Staff recommends **Approval in BOA-21-10300055** based on the following findings of fact:

1. The addition will remain 4'6" away from the rear property line and 3'8" from the side property line; and
2. There is 30' between the addition and the adjacent structure to the rear and 14' between the addition and the structure to the side; and
3. The minimum lot size was put in place by the City and created the nonconforming status.