



# City of San Antonio

## Legislation Details (With Text)

**File #:** 21-4982

**Type:** Staff Briefing - Without Ordinance

**In control:** Board of Adjustment

**On agenda:** 8/2/2021

**Title:** BOA-21-10300076: A request by Mark Wanke for a 15' 6" variance to the minimum 20' rear setback to allow for an attached deck to be 4' 6" from the rear property line with a 2' overhang, located at 12014 Sunburst Lane. Staff recommends Approval. (Council District 8) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@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-21-10300076
Applicant:	Mark Wanke
Owner:	Mark Wanke
Council District:	8
Location:	12014 Sunburst Lane
Legal Description:	Northwest 65.43 feet of Lot 2, Block 15, NCB 14725
Zoning:	"R-6 MLOD-1 MLR-2" Residential Single-Family Camp Bullis Military Lighting Overlay Military Lighting Region 2 District
Case Manager:	Roland Arsate, Planner

### Request

A request for a 15'6" variance from the minimum 20' rear setback, as described in Section 35-310.01, to allow an attached deck to be 4' 6" from the rear property line with a 2' roof overhang.

### Executive Summary

The subject property is located on 12000 Block of Sunburst Lane. The existing single-family structure has an attached rear covered deck. The request is for a variance to the rear yard setback for an attached rear covered deck built 4'6" from the rear property line.

Upon the site visit conducted by BOA staff, other observations were noticed including a roof overhang from

attached deck to a rear yard setback. Per consultation with the plan review team, the customer would need to fire rate the soffit on the overhang of the roof on the deck.

### **Code Enforcement History**

There are no relevant Code Enforcement violations pending.

### **Permit History**

No permit pulled for construction of the rear deck.

### **Zoning History**

The subject property was annexed by the City of San Antonio per ordinance 32614 dated September 24, 1964 and was zoned Temporary “R-1” Single-Family 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” Residential Single-Family Camp Bullis Military Lighting Overlay Military Lighting Region 2 District	Single-Family Residence

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

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“R-6 MLOD-1 MLR-2” Residential Single-Family Camp Bullis Military Lighting Overlay Military Lighting Region 2 District	Single-Family Residence
South	“R-6 MLOD-1 MLR-2” Residential Single-Family Camp Bullis Military Lighting Overlay Military Lighting Region 2 District	Single-Family Residence
East	“R-6 MLOD-1 MLR-2” Residential Single-Family Camp Bullis Military Lighting Overlay Military Lighting Region 2 District	Single-Family Residence
West	“R-6 MLOD-1 MLR-2” Residential Single-Family Camp Bullis Military Lighting Overlay Military Lighting Region 2 District	Single-Family Residence

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

The subject property is s designated “Low Density Residential” in the future land use component of the North Sector Plan. The subject property is located within the Vance Jackson Neighborhood Association and they were notified of the case.

### **Street Classification**

Sunburst Lane is classified as a Local Road

### **Criteria for Review - Variances**

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 applicant is requesting a variance to the rear yard setback for an attached deck, which is not contrary.**

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

The attached structure to the rear of the property was newly constructed, so a literal enforcement of the ordinance would result in the applicant needing to remove most or the entire structure altogether.

**Staff recommends approving the rear variance of 15' 6" and fire rate the soffit under the covered porch roof.**

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 rear structure maintaining 4' 6" from the rear property line, the spirit of the ordinance will be observed and substantial justice will be done.**

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.*

**If granted, the attached rear deck will maintain 4' 6" from the rear property line which is not likely to alter the essential character of the district.**

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 plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property. The structure facing Sunburst Lane already existed and encroached into the southeastern rear setback. The circumstances were not created by the owner and are not merely financial.

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

The alternative to the applicant's request is to approve variance of 15'6' to rear set back of property line and fire rate the soffit of roof overhang.

#### **Staff Recommendation - Side Setback Variances**

Staff recommends **Approval** of rear setback variance in **BOA-21-10300070** based on the following findings of fact:

1. There are similar decks in area that have the same configuration; and
2. The structure is almost completely constructed; and
3. The attached deck is not out of character for the neighborhood.