



# City of San Antonio

## Legislation Details (With Text)

**File #:** 21-5360

**Type:** Staff Briefing - Without Ordinance

**In control:** Board of Adjustment

**On agenda:** 9/13/2021

**Title:** BOA-21-10300084: A request by Yolanda Rodriguez for 1) a variance to allow parking to be located in front of the structure and 2) a 20' 6" variance from the minimum 30' rear setback to allow a rear setback of 9' 6", located at 2011 Probandt Avenue. Staff recommends Approval. (Council District 3) (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-21-10300084
Applicant:	Yolanda Rodriguez
Owner:	Yolanda Rodriguez
Council District:	3
Location:	2011 Probandt Avenue
Legal Description:	North IRR 120' of Lots 6 and 7, Block 1, NCB 3381
Zoning:	"NC MLOD-2 MLR-2 AHOD" Neighborhood Commercial Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Case Manager:	Kayla Leal, Senior Planner

### Request

A request for 1) a variance from the "NC" parking requirements, as described in Section 35-310, to allow parking to be located in front of the structure and 2) a 20' 6" variance from the minimum 30' rear setback, as described in Section 35-310, to allow a rear setback of 9' 6".

### Executive Summary

The subject property is located on the corner of Probandt Street and Thelka Street. There is currently a structure partially constructed on the property. The property is zoned "NC" Neighborhood Commercial District which requires parking to be located behind the primary structure and requires a 30' rear setback since there is

residential zoning behind the property. The applicant is requesting a variance to locate the parking in front of the structure and to reduce the rear setback to 9' 6". Commercial Plans were submitted for the project which is where it was noticed a variance from the Board of Adjustment was required.

### **Code Enforcement History**

No related Code Enforcement History was found for the subject property.

### **Permit History**

No permits were found for the subject property.

### **Zoning History**

The subject property was located within the 1938 Original City Limits of San Antonio and zoned "C" Apartment District. The zoning changed to "R-1" Single Family Residence District on November 7, 1996, established by Ordinance 85113. Upon adoption of the 2001 Unified Development Code (Ordinance 93881, dated May 3, 2001), the zoning converted from "R-1" to "R-6" Residential Single-Family District. The zoning changed on August 4, 2010 from "R-6" to the current "NC" Neighborhood Commercial District, established by Ordinance 2010-08-05-0684.

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

Existing Zoning	Existing Use
"NC MLOD-2 MLR-2 AHOD" Neighborhood Commercial Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Vacant Commercial

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

Orientation	Existing Zoning District(s)	Existing Use
North	"R-6 MLOD-2 MLR-2 AHOD" Residential Single Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
South	"C-2 MLOD-2 MLR-2 AHOD" Commercial Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Commercial Auto Uses
East	"R-5 MLOD-2 MLR-2 AHOD" Residential Single Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Probandt Avenue/Single-Family Residence
West	"R-6 MLOD-2 MLR-2 AHOD" Residential Single Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence

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

The subject property is in the South Central Community Plan and is designated “Neighborhood Commercial” in the future land use component of the plan. The subject property is not located within a Neighborhood Association.

### **Street Classification**

Probandt Avenue is classified as a Secondary Arterial Type B.

### **Criteria for Review - Variance**

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 variances to locate the parking in front of the structure and reduce the rear setback. Staff does not find these requests to be contrary to the public interest.**

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

**The shape of the lot and its location on the corner introduces special conditions on the subject property. A literal enforcement would result in the building having to be pushed toward the corner of the lot and parking in the rear, which would result in unnecessary hardship in regards to the off-street parking.**

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. Reducing the rear setback to 9’ 6” does not appear to create any adverse effects and will maintain 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 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 variances requested do not appear to injure adjacent properties or alter the essential character of the district. There are other commercial properties across Probandt with parking located in the rear.**

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 such as the odd shape of the lot and the location on the corner.**

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

The alternative to the applicant's request is to conform to the Lot and Building Dimensions of the UDC Section 35-310.

### **Staff Recommendation - Rear Setback & Parking Variance**

Staff recommends **Approval** in **BOA-21-10300084** based on the following findings of fact:

1. The shape of the lot is irregular and located on a corner; and
2. Relocating the parking will make for more convenient ingress/egress; and
3. The building setback will be 9' 6" away from the rear property line; and
4. The reduction in the rear setback does not appear to cause any adverse effects.