



# City of San Antonio

## Agenda Memorandum

**File Number:**15-5678

---

**Agenda Item Number:** 6.

**Agenda Date:** 11/2/2015

**In Control:** Board of Adjustment

---

**Case Number:** A-15-163  
**Applicant:** John Hurtado  
**Owner:** John Hurtado  
**Council District:** 2  
**Location:** 2410 Dignowity  
**Legal Description:** Lot 3, Block 7, NCB 1200  
**Zoning:** "I-1 EP-1 AHOD" General Industrial Facility Parking/Traffic Control  
Airport Hazard Overlay District  
**Case Manager:** Margaret Pahl AICP, Senior Planner

### **Request**

A request for a 15 foot variance from the minimum 30 foot front setback, as described in Table 35-310-1, to allow a manufactured home to remain 15 feet from the street right of way line.

### **Executive Summary**

The subject property is located in the Government Hill Neighborhood, in an area isolated by the freeway to the north and the railroad tracks to the south. The area is predominantly industrial in zoning and use. Almost half of the streets in this area have never been constructed, and several of the improved streets dead end. There are no sidewalks in the vicinity. The property has had a manufactured home on it since early 2001. The previous owner applied for a similar variance in 2001 when the zoning district required both a 20 foot front and rear setback but withdrew the application prior to a decision. That same previous owner also attempted to rezone the property in 2011 for use as an RV park, but this request was not approved. Since that time, the previous owner sold this lot and several others on both sides of the street to the applicant (May 2013). The new owner was granted non-conforming use rights in 2014 to allow the manufactured home to remain. In addition, according to Appendix "D" of the Unified Development Code, Section 35-D101 (h) legally existing manufactured homes may be replaced with a newer home.

The applicant switched out a newer home after his 2013 purchase without a permit. The home measured 72 feet in length, leaving a total of 32 feet for setbacks. There are no minimum side or rear setbacks required in the "I-1" zoning district, however the applicant has provided a 9 foot rear setback. A neighbor initiated a code enforcement investigation shortly after the installation and the applicant has been working to resolve the identified issues. The applicant has since pulled a series of permits, including the building permit, and trade permits, but is seeking the variance to allow the home to remain 15 feet from the property line. According to the applicant, the home was installed 30 feet from the fence, thinking that the fence was constructed on the property line. The public right of way is far wider than the improvements however, generating the need for a

reduced front setback variance. This setback variance is the final step in clearing up the issues for this property.

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

Existing Zoning	Existing Use
"I-1 EP-1 AHOD" General Industrial Facility Parking/Traffic Control Airport Hazard Overlay District	Manufactured home

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

Orientation	Existing Zoning District(s)	Existing Use
North	"I-1 EP-1 AHOD" General Industrial Facility Parking/Traffic Control Airport Hazard Overlay District	Vacant
South	"I-2 EP-1 AHOD" Heavy Industrial Facility Parking/Traffic Control Airport Hazard Overlay District	Vacant
East	"I-2 EP-1 AHOD" Heavy Industrial Facility Parking/Traffic Control Airport Hazard Overlay District	Vacant
West	"I-1 EP-1 AHOD" General Industrial Facility Parking/Traffic Control Airport Hazard Overlay District	Vacant

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

The property is located within the boundaries of the Government Hill Neighborhood Plan and currently designated as Light Industrial in the future land use component of the plan. The subject property is also located within the boundaries of the Government Hill Neighborhood Association, a registered neighborhood association. As such, they were notified of the request and asked to comment.

### **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 public interest is represented by the minimum setbacks used in the industrial districts to mitigate the impact of industrial uses on the public. In this case, the use is residential and the setback as provided is not contrary to the public interest.**

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

**The special circumstance present on the subject property is that the setback is established for an industrial use, rather than the residential use. Therefore this unique circumstance makes literal enforcement an unnecessary hardship.**

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 letter of the law. The intent of a 30 foot front setback is based on the impact of an industrial use. The manufactured home is setback 30 feet from the fence and therefore observes the spirit of the code.**

4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*

**The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the “I-1 EP-1 AHOD” General Industrial Facility Parking/Traffic Control Airport Hazard Overlay District.**

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 applicant owns most of the property surrounding the subject property and aside from the industrial use to the northeast, the area is vacant. Allowing the manufactured home to remain as currently installed will not 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.*

**The owner had the home installed 30 feet from the front fence, but the street right of way is far wider than the improvements. The City is unlikely to ever need to widen the street, making the current 15 foot setback adequate.**

### **Alternative to Applicant’s Request**

The applicant could relocate the home to the rear of the property and satisfy the front setback.

### **Staff Recommendation**

Staff recommends **APPROVAL** of **A-15-163** based on the following findings of fact:

1. The wide front setback was established to mitigate industrial uses and is not needed for the single residential structure in this isolated area.