



# City of San Antonio

## Agenda Memorandum

**File Number:**16-4909

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**Agenda Item Number:** 4.

**Agenda Date:** 9/19/2016

**In Control:** Board of Adjustment

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**Case Number:** A-16-154  
**Applicant:** Meritage Homes of Texas LP  
**Owner:** Meritage Homes of Texas LP  
**Council District:** 8  
**Location:** 13027 Tulip Farm  
**Legal:** Lot 7, Block 43, NCB 14861  
**Description:**  
**Zoning:** "R-5 MLOD" Residential Single-Family Military Lighting  
Overlay District  
**Case Manager:** Logan Sparrow, Senior Planner

### Request

A request for a 1'5" variance from the 45 foot minimum lot width for a property zoned "R-5" Residential Single-Family, as described in Section 35-310.01, to allow the lot to be 43'7" wide.

### Executive Summary

The subject property is located at 13027 Tulip Farm Drive at its intersection with Willow Farm Drive. The Unified Development Code establishes several standards for lot development including, but not limited to setbacks, size, frontage, and width. Generally, lot width is measured at the front setback. However, the UDC included a provision that on irregularly shaped lots the width is measured at the front wall of the structure. The width requirement for an "R-5" Residential Single-Family lot is 45 feet.

By mistake, the foundation was poured without a permit and when they identified the mistake and applied for a permit it was discovered that the lot width, measured at the front wall of the dwelling, is 43'7" wide. The property requires a 1'5" variance to permit the construction. Further, the dwelling has a proposed rear patio located 20 feet from the rear property line, which meets the setback. A literal enforcement of the ordinance would result in the structure having to be pushed deeper into the lot, placing the rear patio out of compliance with the rear setback.

Existing Zoning	Existing Use
"R-5 MLOD" Residential Single-Family Military Lighting Overlay District	Single-Family Dwelling

## Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-5 MLOD” Residential Single-Family Military Lighting Overlay District	Single-Family Dwelling
South	“R-5 MLOD” Residential Single-Family Military Lighting Overlay District	Single-Family Dwelling
East	“R-5 MLOD” Residential Single-Family Military Lighting Overlay District	Single-Family Dwelling
West	UZROW	JV Bacon Parkway

## Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the North Sector Plan and designated as Suburban Tier in the future land use component of the plan. The subject property is not located within, or within 200 feet of, the boundaries of any neighborhood association.

## 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 minimum lot widths to ensure consistency in development within the community. Staff finds that the 1’5” difference is unlikely to ever go noticed and, therefore, 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 condition present in this case is that the irregular shape of the lot. To achieve the required width, the dwelling has to be located further back on the lot. And while the dwelling is set back further than others, it fails to meet the width requirement by less than two feet. A literal enforcement of the ordinance would require that the house be pushed deeper into the lot to meet the 45’ width, which would place the dwelling out of compliance with the rear zoning setback. Staff finds that this would result in an unnecessary hardship.**

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

**Granting the requested variance will result in substantial hardship in that it will allow the development of the home to proceed. Because the reduced width is hardly noticeable staff finds that approval of the variance request would result in substantial justice.**

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 “R-5 MLOD” Residential Single-Family Military Lighting 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 requested variances are unlikely to detract from the essential character of the community. Nothing about the development in this lot seems different than others and the side setbacks are all met.**

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 unique circumstance present in this case is the irregularly shaped lot which introduces an additional design challenge.**

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

The applicant would need to comply with the width required by the Unified Development Code.

### **Staff Recommendation**

Staff recommends **APPROVAL** for the variance requests in **A-16-154** based on the following findings of fact:

1. The width reduction is unlikely to be noticed.
2. To comply with the width requirement, they would push the structure into the rear setback, requiring another variance.