



# City of San Antonio

## Agenda Memorandum

**File Number:**19-1774

---

**Agenda Item Number:** 7.

**Agenda Date:** 2/4/2019

**In Control:** Board of Adjustment

---

**Case Number:** BOA-18-900030  
**Applicant:** Michael Lockwood  
**Owner:** Joaquin Arch, The American Legion Department of Texas.  
**Council District:** 2  
**Location:** 3415 Martin Luther King Drive  
**Legal:** Lot 31, Block 2, NCB 10679  
**Description:**  
**Zoning:** "C-3 MLOD-3 MLR-1" General Commercial Martindale Army  
Air Field Military Lighting Overlay Military Lighting Region 1  
District  
**Case Manager:** Debora Gonzalez, Senior Planner

### **Request**

A request for a 15' variance from the 30' rear setback requirement, as described in Section 35-310.01, to allow a structure to be 15' away from the rear property line.

### **Executive Summary**

The subject property is located at the intersection of Martin Luther King Drive and Beulah Street. The applicant is requesting a variance to reduce the rear setback of the subject property adjacent to single-family residence to allow for the expansion of the existing structure. The existing structure currently provides parking space in the front and the side; the addition in the rear will not be removing any parking spaces.

### **Code Enforcement History**

No Code Enforcement history exists on the property.

### **Permit History**

No permits have been issued for this project.

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

<b>Existing Zoning</b>	<b>Existing Use</b>
"C-3 MLOD-3 MLR-1" General Commercial Martindale Army Air Field Military Lighting Overlay Military Lighting Region 1 District	Veterans Organization

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

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	"R-4 MLOD-3 MLR-1" Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 1 District	Single-Family Dwelling
South	"R-4 MLOD-3 MLR-1" Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 1 District	Single-Family Dwelling
East	"R-4 MLOD-3 MLR-1" Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 1 District	Single-Family Dwelling
West	"R-4 MLOD-3 MLR-1" Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 1 District	Single-Family Dwelling

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

The subject property is within the boundaries of the Eastern Triangle Community Plan and is designated as "High Density Mixed Use" in the future land use component of the plan. The subject property is within the Wheatley Heights Action Group Neighborhood Association. As such, they were notified and asked to comment.

### **Street Classification**

Martin Luther King Drive is classified as a Secondary Arterial.

### **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 15 foot rear setback is not contrary to public interest as they do not negatively impact any**

surrounding properties or the general public. The property will be meeting the bufferyard requirements and is only asking to reduce the rear setback requirement. Staff finds the request is not contrary to the public interest. The setbacks required for the “C-3” district anticipated intense uses requiring large separation from residential uses.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*  
**A literal enforcement of the ordinance would result in unnecessary hardship by eliminating a significant amount of developable space. Enforcing the full requirement removes developable space and the owner will probably need to reduce the parking requirements to expand the building; which may leave the development with insufficient space to develop as proposed.**
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

**In this case, the reduced rear setback requirement will provide more space without affecting adjacent properties.**

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 variances will not authorize the operation of a use on the subject property other than those specifically authorized in the zoning 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.*

**Although the applicant is seeking to reduce the rear setback required by the code, the provision of a landscape bufferyard will still be met by the project.**

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 existing structure, if expanded to the front or side, will remove parking spaces from the site. The property has sufficient space to expand without affecting adjacent properties and warrants some relief to allow for development.**

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

The alternative to the applicant’s plan would be to comply with Section 35-310.01 and modify the proposed development.

### **Staff Recommendation**

Staff recommends **APPROVAL** of the variance in **BOA-18-900030**, based on the following findings of fact:

1. The requests do not negatively impact surrounding property owners and significantly improves the use of the site; and
2. The existing building will leave space for maintenance and will meet the bufferyard requirement.