



# City of San Antonio

## Agenda Memorandum

**File Number:**19-4389

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**Agenda Item Number:** 3.

**Agenda Date:** 6/3/2019

**In Control:** Board of Adjustment

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**Case Number:** BOA-19-10300056

**Applicant:** Alvin G. Peters

**Owner:** Alvin G. Peters

**Council District:** 5

**Location:** 2101 Leal Street

**Legal:** 2101 Leal Street

**Description:**

**Zoning:** "C-2 MLOD-2 MLR-2 AHOD" Commercial Lackland  
Military Lighting Overlay Military Lighting Region 2 Airport  
Hazard Overlay District

**Case Manager:** Mercedes Rivas, Planner

### **Request**

A request for 1) a 25' variance from the 30' rear setback requirement, as described in Section 35-371(a), to allow a structure to be 5' from the rear property line, and 2) a 2.5' variance from the 10' side setback requirement, as described in Section 35-371(a), to allow a structure to be 7.5' from the side property line, 3) an 8' variance from the 15' Type B landscape bufferyard requirement as described in Section 35-510, Table 510-1, to allow a bufferyard to be as narrow as 7' along the side property line, and 4) a 10' variance from the 15' Type B landscape bufferyard requirement as described in Section 35-510, Table 510-1, to allow a bufferyard to be as narrow as 5' along the rear property line.

### **Executive Summary**

The applicant is requesting a reduction of the side and rear building setback lines, and a reduction of the Type B landscape bufferyard along the side and rear property lines in order to add an addition to the existing convenience store. Both facades of the building located along the reduced setbacks will have only one door opening and no windows facing into the yards of the adjacent lots. The subject property is surrounded by residential properties.

### **Code Enforcement History**

No violations of the requirements of the UDC were observed upon a staff visit to the site, and there have been no code violations reported.

### **Permit History**

No permit history related to these requests exists on the property. The property owner is seeking variances to allow for permits to be issued.

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

Existing Zoning	Existing Use
“C-2 MLOD-2 MLR-2 AHOD” Commercial Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Convenience Store

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

Orientation	Existing Zoning District(s)	Existing Use
North	“R-4 MLOD-2 MLR-2 AHOD” Residential Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Home
South	“R-4 MLOD-2 MLR-2 AHOD” Residential Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Home
East	“R-4 MLOD-2 MLR-2 AHOD” Residential Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Home
West	“R-4 MLOD-2 MLR-2 AHOD” Residential Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Home

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

The property is not within any adopted Neighborhood, Community, Perimeter or Sector Plan. However, the property is within the proposed Westside Community Plan, which is in Phase 1. The subject property is located within the boundaries of the Prospect Hill/West End Hope in Action Neighborhood Association. As such, they were notified and asked to comment.

### **Street Classification**

Leal Street is classified as a local street.

### **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 bufferyards are not contrary to public interest as they do not negatively impact any surrounding properties or the general public. The property does not currently benefit from any bufferyard and even the reduced bufferyard proposed by the applicant will enhance the property. Staff finds the request is not contrary to the public interest.**

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 requiring the project to be redesigned to meet the required bufferyard and building setback requirements.**
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

**The intent of rear and side setbacks is to create an open area without crowding of structures and to establish uniform development standards to protect the rights of property owners. The side and rear setback reduction of the subject property will not significantly disrupt uniformity and will not injure the rights of adjacent property owners. In this case, the reduced bufferyard will be consistent with neighboring 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 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 bufferyards required by the code, the provision of landscape bufferyards will still enhance the community and the proposed project. Further, the side and rear setback reduction will not produce water runoff on adjacent properties and will not require trespass to maintain the structure.**

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 unique circumstance in this case is that the subject property is small in size which would leave very little room for the proposed addition.**

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

The alternative to the applicant's plan would be to comply with the bufferyards defined within Section 35-510, Table 510-1.

### **Staff Recommendation:**

Staff recommends **APPROVAL** of variances in **BOA-19-10300056**, 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.