



# City of San Antonio

## Agenda Memorandum

**File Number:**19-5213

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**Agenda Item Number:** 8.

**Agenda Date:** 7/1/2019

**In Control:** Board of Adjustment

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Case Number: BOA-19-10300078  
Applicant: Peggy Brimhall, Figurd LLC  
Owner: Phil Hooker, Land & Cattle Company, LLC  
Council District: 2  
Location: 807 Colita Street  
Legal: Lot 2, Block 2, NCB 1266  
Description:  
Zoning: "RM-4 H MLOD-3 MLR-2 AHOD" Residential-Single  
Family Government Hill Historic Martindale Military  
Lighting Overlay Military Lighting Region 2 Airport Hazard  
Overlay District  
Case Manager: Debora Gonzalez, Senior Planner

### **Request**

A request for a 6'6" variance from the 10' front setback requirement, as described in Section 35-310.01, to allow for a structure to be 3'6" from the front property line

### **Executive Summary**

The subject property is located at 807 Colita Street, a substandard street, approximately 70 feet East of Pierce Avenue. The applicant is building a 3 unit townhome, and is seeking a variance to allow a new structure to be 3'6" from the front property line. The subject property is located within the Government Hill Historic District, which requires approval from the Historic Design Review Commission (HDRC). HDRC issued a Certificate of Appropriateness on November 7, 2018 to this project, recommending the 3'6" setback. The applicant then submitted an application on January 03, 2019 for a residential building permit and received approval on February 6, 2019. During residential plan review staff, was unaware that this project first required a variance approval prior to issuing the construction permit. The subject property is surrounded by single-family dwellings units and multi-family dwellings units.

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

Existing Zoning	Existing Use
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“RM-4 H MLOD-3 MLR-2 AHOD” Residential-Single Family Government Hill Historic Martindale Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Under construction - Multi-Family Dwelling
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### **Surrounding Zoning/Land Use**

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“R-6 H MLOD-3 MLR-2 AHOD” Residential -Single Family Government Hill Historic Martindale Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling
South	“R-6 H MLOD-3 MLR-2 AHOD” Residential -Single Family Government Hill Historic Martindale Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling
East	“R-6 H MLOD-3 MLR-2 AHOD” Residential -Single Family Government Hill Historic Martindale Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling
West	“R-6 H MLOD-3 MLR-2 AHOD” Residential -Single Family Government Hill Historic Martindale Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling

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

The subject property is within the boundaries of the Government Hill Neighborhood Plan and currently designated “Medium Density Residential” in the future land use component of the plan. The subject property is located within the Government Hill Alliance. As such they were notified and asked to comment.

### **Street Classification**

Colita 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 public interest is represented by setbacks that maintain neighborhood character. The 3'6" front setback is not contrary to public interest as it does not negatively impact any surrounding properties or the general public.

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

If enforced, the ordinance would significantly increase the physical hardship for the property owner. HDRC and the Office of Historic Preservation recommend the setback as that is the character of the district.

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 the intent of the code, rather than the strict letter of the law. The intent of the code is to establish a cohesive theme. The request to reduce the front setback observes the intent of the code as the property complies with other requirements in neighborhood design.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized*

The variance will not authorize the operation of a use other than those uses specifically authorized by 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.*

The request will not injure the rights of neighboring properties as the reduction does not detract from the character of the neighborhood.

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 existing here is not the fault of the owner of the property, nor is it due to, or the result of, general conditions in the community in which it is located.

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

The owner would need to meet the front yard setback.

### **Staff Recommendation**

Staff recommends **APPROVAL** of the variance in **BOA-19-10300078**, based on the following findings of fact:

1. The proposed project will not detract from the community character of the community.