



# City of San Antonio

## Agenda Memorandum

**File Number:**19-7819

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**Agenda Item Number:** 10.

**Agenda Date:** 10/21/2019

**In Control:** Board of Adjustment

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**Case Number:** BOA-19-10300117

**Applicant:** Jorge De La Vega

**Owner:** Roberto Garza

**Council District:** 2

**Location:** 429 Natalen Avenue

**Legal:** Lot 133 Block 3 NCB 6781

**Description:**

**Zoning:** “MF-33 NCD-6 MLOD-3 MLR-2” Multi-Family Mahncke  
Park Neighborhood Conservation Martindale Army Air Field  
Overlay Military Lighting Region 2 District

**Case Manager:** Rachel Smith, Planner

### **Request**

A request for a 1.5' variance from the 5' required side setback requirement, as described in Section 35-310.01, to allow a structure to be 3.5' away from the east property line.

### **Executive Summary**

The subject property is a lot with two two-story single-family residences constructed. The two residences are newly constructed. The Mahncke Park Neighborhood Conservation District (NCD) requires that all single-family dwellings be at least 10 feet away from other dwellings, and the applicant has met that and all other requirements of the NCD.

### **Zoning History**

The subject property is located within the original thirty-six square mile area of San Antonio and was zoned “D” Apartment District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “D” Apartment District converted to the current “MF-33” Multi-family District.

### **Code Enforcement History**

No code enforcement history exists on this property.

### **Permit History**

Residential building permits pulled with inspections scheduled after construction almost complete. The applicant is seeking a variance to complete the home for occupancy.

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

| Existing Zoning  | Existing Use                |
|--|-----------------------------|
| “MF-33 NCD-6 MLOD-3 MLR-2” Multi-Family Mahncke Park Neighborhood Conservation Martindale Army Air Field Overlay Military Lighting Region 2 District | Two single-family dwellings |
|  |                             |

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

| Orientation | Existing Zoning District(s)  | Existing Use           |
|-------------|--|------------------------|
| North       | “MF-33 NCD-6 MLOD-3 MLR-2” Multi-Family Mahncke Park Neighborhood Conservation Martindale Army Air Field Overlay Military Lighting Region 2 District | Single-family dwelling |
| South       | “MF-33 NCD-6 MLOD-3 MLR-2” Multi-Family Mahncke Park Neighborhood Conservation Martindale Army Air Field Overlay Military Lighting Region 2 District | Multi-family buildings |
| East        | “MF-33 NCD-6 MLOD-3 MLR-2” Multi-Family Mahncke Park Neighborhood Conservation Martindale Army Air Field Overlay Military Lighting Region 2 District | Single-family dwelling |
| West        | “MF-33 NCD-6 MLOD-3 MLR-2” Multi-Family Mahncke Park Neighborhood Conservation Martindale Army Air Field Overlay Military Lighting Region 2 District | Single-family dwelling |

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

The subject property is designated as “Urban Low-Density Residential” in the Midtown Regional Center Area plan. This property is in the boundaries of the Mahncke Park Neighborhood Association.

### **Street Classification**

Natalen Avenue 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 1.5' side setback is not contrary to public interest as it does not negatively impact any surrounding properties or the general public. The neighboring residential dwelling is 21' away from this structure.

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

The special conditions on this lot are the uniquely narrow lot; a literal enforcement would result in the destruction of the wall of the second home on the lot.

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 cohesive development that preserves the public interest. The request to reduce the side setback observes the intent of the code as the property complies with other requirements in neighborhood design and similar placements are found within the neighborhood.

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

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. The adjacent homes on either side are at least 10 feet from the structure and the requested variance will not alter this distance.

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 alternative to the applicant's request is to conform to the setback limitations established by the Unified Development Code Section 35-310.01.

### **Staff Recommendation**

Staff recommends **APPROVAL** of the variance in **BOA-19-10300117**, based on the following findings of fact:

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