



# City of San Antonio

## Agenda Memorandum

**File Number:**20-5781

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**Agenda Item Number:** 4.

**Agenda Date:** 10/5/2020

**In Control:** Board of Adjustment

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**Case Number:** BOA-20-10300057  
**Applicant:** Mirna Rizo  
**Owner:** Mirna Rizo  
**Council District:** 5  
**Location:** 315 Noria  
**Legal Description:** Lot 22 NCB 6870  
**Zoning:** "R-4 MLOD-2 MLR-2 AHOD" Single-Family Residential  
Lackland Military Lighting Overlay Military Lighting  
Region 2 Airport Hazard Overlay District.  
**Case Manager:** Azadeh Sagheb, Planner

### **Request**

A request for 1) a 15'5" variance from the 20' minimum rear setback, as described in Section 35-370, to allow an attached addition to be 4'7" from the rear property line, and 2) a 1'4" variance from the required 5' side setback, also as described in Section 35-370, to allow the attached addition to be 3'8" away from the side property line.

### **Executive Summary**

The subject property is located at 315 Noria, East of San Juan Brady park, North of US HWY 90. There is currently a single-family residence constructed on the property. The neighborhood is predominately surrounded by residential buildings. The area of the primary structure is 850 square feet and the owner constructed an attached addition, which is approximately 580 square feet, on the rear side of the property without obtaining a permit. The minimum required rear setback for the "R-4" zoned property is 20' and this new addition, which is more than 60 percent of the size of the original structure, leaves 4'7" in the rear side of the property.

### **Code Enforcement History**

There is an active Code Enforcement record for this property.

### **Permit History**

No permit history exists on this property.

## **Zoning History**

The subject property is located within the original 36 square miles of the City of San Antonio and originally zoned as “C” Apartment district. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property was converted to “MF-33” Multi-Family District. The property was rezoned to its current “R-4” Single-Family Residential District by Ordinance 96343, dated September 12, 2002.

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

<b>Existing Zoning</b>	<b>Existing Use</b>
“R-4 MLOD-2 MLR-2 AHOD” Single-Family Residential Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District.	Residential

## **Surrounding Zoning/Land Use**

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

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

The subject property is within the boundaries of the Guadalupe Westside Community Plan and currently designated as Low Density Residential in the future land use component of the plan. The subject property is located within the boundaries of San Juan Gardens/Collins Gardens Neighborhood Association. As such, they were notified and asked to comment.

## **Street Classification**

Noria Street is classified as a local street.

## **Criteria for Review**

According to Section 35-482(e) of the UDC, in order for variances 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, given the massive size of the built addition, this variance is highly likely to be noticed from the right-of-way; it is the only property that will accommodate a large structure within the site.

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

Staff cannot find any special conditions that would result in any unnecessary hardship. If a permit was obtained, staff could have advised on other alternatives to comply with the code requirements and meet the applicant's expectations.

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 defined as the intent of the code, rather than the exact letter of the law. The requested variances do not observe the spirit of the ordinance. The intent of the setback limitation is to provide adequate space for maintenance, fire separation.

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.*

No uses other than those allowed within the district will be allowed with this variance.

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 overall character of the community is shaped by having a large open space within the rear yard. The newly constructed addition is out of character within the immediate vicinity. The narrow rear setback distracted the uniformity and cohesion 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 attached addition is overwhelming and seems likely to alter the essential character of the district. There exist no unique circumstances on the property to warrant granting the requested variance.

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

Denial of the request would result in the owner having to meet the required setback requirements as described in Section 35-370.

## **Staff Recommendation**

Staff recommends **Denial of BOA-10300057** of the requested variances based on the following findings of fact:

1. The requested variances do detract from the character of neighborhood, and;
2. There are no unique circumstances present that warrant the request, and;