



# City of San Antonio

## Agenda Memorandum

**File Number:**20-6617

---

**Agenda Item Number:** 4.

**Agenda Date:** 11/16/2020

**In Control:** Board of Adjustment

---

Case Number: BOA-20-10300104  
Applicant: Jose Rolando Garza  
Owner: Jose Rolando Garza  
Council District: 1  
Location: 1330 West Mulberry  
Legal: Lot 5, Block 85, NCB 3254  
Description:  
Zoning: "C-1 AHOD" Light Commercial Airport Hazard Overlay  
District  
Case Manager: Dominic Silva, Senior Planner

### **Request**

A request for 1) a 10' variance from the 15' Type B bufferyard, as described in Section 35-510, to allow a bufferyard to be 5' along the east and west property lines and 2) a 5' variance from the minimum 10' side setback, as described in Section 35-310.01, to allow a structure to be 5' from the east and west property lines.

### **Executive Summary**

This case is re-hearing of BOA-18-067 during the March 16, 2018 Board of Adjustment cycle. No details have been modified; all requests are the same. The applicant is renewing their application as BOA-18-067 has expired.

The applicant is requesting a bufferyard and setback variance for the east and west sides of the commercially zoned property. The property is located adjacent to I-10 and has been vacant for numerous years.

### **Code Enforcement History**

No code enforcement history exists on this property.

### **Permit History**

No permits have been processed for this property.

### **Clear Vision Review**

A review of Clear Vision is not required.

### **Zoning History**

The property is within the original 36 square miles of the City of San Antonio and was originally zoned as “B” Residence District. The “B” Residence District converted to the current “R-4” Residential Single-Family District with the adoption of the 2001 Unified Development Code (UDC), established by Ordinance 93881, on May 3, 2001. Ordinance 2016-04-07-0252 rezoned the property from “R-4” to the current “C-1” Light Commercial District, dated April 7, 2016.

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

<b>Existing Zoning</b>	<b>Existing Use</b>
“C-1 AHOD” Light Commercial Airport Hazard Overlay District	Vacant

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

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“O-2 AHOD” High-Rise Office Airport Hazard Overlay District “	Office
South	“R-4 AHOD” Heavy Industrial Airport Hazard Overlay District	Church
East	IH-10	Highway
West	“R-4 AHOD” Heavy Industrial Airport Hazard Overlay District	Single-Family Dwelling

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

The property is within the Near Northwest Community Plan and designated as Community Commercial in the future land use component of the plan. The subject property is located within the boundaries of the Keystone registered neighborhood association. As such, they were notified and asked to comment.

### **Street Classification**

West Mulberry is classified as a minor roadway.

### **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 owner of the property is trying to develop a small commercial tract that has long been vacant. With the adjacent residential use, the code triggers large bufferyards, as well as setbacks. In order to make the site useable, the applicant requires some relief. The applicant sought staff's assistance with a layout to best achieve his development needs. The agreed upon resolution was to reduce both the east and west bufferyards and setbacks to five feet to allow the proposed structures to be placed square on the lot. Staff finds that, as a result of the light commercial uses proposed, the public interest would not be harmed by the requested reductions.

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

**Literal enforcement would make development of the site nearly impossible, or would require a very small structure, which may not satisfy the needs of any tenants. The lot was originally intended for residential uses however, with the addition of the Interstate Highway, the property is no longer suitable for residential use; a commercial use is more appropriate, and deserves some relief.**

*3. By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

**The intent of the setback is to create an open area without crowding of structures and to establish uniform development standards to protect the rights of property owners. In this case, the proposed setbacks and landscape bufferyard reduction will not injure the rights of adjacent property owners.**

*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 permitted in the "C-1 AHOD" Light Commercial Airport Hazard Overlay 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 five foot setback for a new building and the five foot buffer would only enhance the overall appearance of the site, streetscape, and 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 in this case is the corner configuration lot which restricts the owner's ability to develop it without reducing setbacks and landscape bufferyard.**

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

The alternative to the applicant's request is to conform to Unified Development Code in Sections 35-510.

### **Staff Recommendation**

Staff recommends **Approval** of the variances requested in **BOA-20-10300104**, based on the following findings of fact:

1. The request does not negatively impact surrounding property owners and does not significantly alter the appearance of the district; and
2. The proposed development of the new building maintains the bufferyard landscape surrounding the

property.