



City of San Antonio

Agenda Memorandum

File Number:21-1022

Agenda Item Number: 6.

Agenda Date: 1/11/2021

In Control: Board of Adjustment

Case Number:	BOA-20-10300123
Applicant:	Fernando De Leon
Owner:	ACSBLDR INC
Council District:	2
Location:	135 Katy Way
Legal Description:	Lot 23, Block 1, NCB 12867
Zoning:	“RM-4 MLOD-3 MLR-1 MSAO-2 AHOD” Residential Mixed Martindale Army Air Field Military Lighting Overlay Military Lighting Region 1 Military Sound Attenuation Overlay Airport Hazard Overlay District
Case Manager:	Kayla Leal, Senior Planner

Request

A request for a 10” variance to the minimum 5’ side setback, as described in Section 35-310.01, to allow a single-family home to be 4’ 2” away from the side property line.

Executive Summary

The subject property is located on the east side of San Antonio within a new single-family subdivision. The applicant is requesting a variance to a portion of the side setback. Due to an error in construction, the foundation was laid 10” into the side setback toward the rear of the structure. The applicant is requesting to build upon the foundation to be 4’ 2” away from the side property line.

Code Enforcement History

There are no code enforcement issues.

Permit History

There are no relevant permits pulled for the property.

Zoning History

The subject property was annexed into the City of San Antonio on April 6, 2000 by Ordinance 91155. The zoning converted from “R-2” to the current “RM-4” Residential Mixed District upon adoption of the 2001

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“RM-4 MLOD-3 MLR-1 MSAO-2 AHOD” Residential Mixed Martindale Army Air Field Military Lighting Overlay Military Lighting Region 1 Military Sound Attenuation Overlay Airport Hazard Overlay District	New construction of single-family dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“RM-4 MLOD-3 MLR-1 MSAO-2 AHOD” Residential Mixed Martindale Army Air Field Military Lighting Overlay Military Lighting Region 1 Military Sound Attenuation Overlay Airport Hazard Overlay District	Single-family dwelling
South	“RM-4 MLOD-3 MLR-1 MSAO-2 AHOD” Residential Mixed Martindale Army Air Field Military Lighting Overlay Military Lighting Region 1 Military Sound Attenuation Overlay Airport Hazard Overlay District	Vacant Lot
East	“RM-4 MLOD-3 MLR-1 MSAO-2 AHOD” Residential Mixed Martindale Army Air Field Military Lighting Overlay Military Lighting Region 1 Military Sound Attenuation Overlay Airport Hazard Overlay District	Single-family dwelling
West	“RM-4 MLOD-3 MLR-1 MSAO-2 AHOD” Residential Mixed Martindale Army Air Field Military Lighting Overlay Military Lighting Region 1 Military Sound Attenuation Overlay Airport Hazard Overlay District	Single-family dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the I-10 East Corridor Plan and is designated “Medium Density Residential” in the future land use component of the plan. There are no registered Neighborhood Associations within 200’ of the subject property.

Street Classification

Katy Way is classified as a Local Road.

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 variance requested for the side setbacks. The applicant is proposing to construct a single-family residence to encroach 10” into the side setback due to a construction error.

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

Staff finds that any special conditions that, if enforced, would result in an unnecessary hardship. The structure will maintain an adequate amount of space from the adjacent structure.

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 intent of the setbacks is to provide spacing between neighboring structures. The applicant will still maintain about 10’ between structures with a 10” variance to the side.

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 request to reduce a portion of the side setback does not pose a risk of substantially injuring the use of adjacent properties and does not seem likely to alter the essential character of the district.

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.*

Staff finds that the applicant is requesting the variance to build a new single-family residence on the subject property. The unique circumstances existing on the property were not created by the owner of the property and are not merely financial.

Alternative to Applicant’s Request

The alternative to the applicant’s request is to conform to the Lot & Setback Dimensions of the UDC Sections 35-310.01.

Staff Recommendation

Staff recommends **Approval** in **BOA-20-10300123** based on the following findings of fact:

1. A portion of the proposed single-family structure will be 4' 2" from the side property line; and
2. The structure will maintain a 10' separation from the adjacent structure.