



# City of San Antonio

## Agenda Memorandum

**File Number:**21-3633

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**Agenda Item Number:** 5.

**Agenda Date:** 5/17/2021

**In Control:** Board of Adjustment

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Case Number: BOA-21-10300045  
Applicant: Francisco Ojeda  
Owner: Francisco Ojeda  
Council District: 9  
Location: 13411 Marceline Drive  
Legal Description: Lot 13, Block 15, NCB 16088  
Zoning: "R-5 AHOD" Residential Single-Family Airport Hazard  
Overlay District  
Case Manager: Azadeh Sagheb, Senior Planner

### **Request**

A request for a 4'11" variance to the minimum 5' side setback as required in Table 310-1 to allow a patio cover to be 1" from the side property line.

### **Executive Summary**

The subject property is located at Marceline Drive, North of San Antonio International Airport and within the Arbor, unit 4 subdivision. The entire neighborhood is characterized by zero lot line dwelling units with a 2' overhang into the adjacent properties. In 1979 the recorded plat included notes that referenced "Townhome Development". This note allowed for townhouses to be built at the zero lot line. Townhomes are defined as a minimum of 3 attached structures. The neighborhood was built in the 1980s as single family detached structures, generally built to zero lot line. Permits were issued allowing for the development.

The current UDC rules require side setbacks of 5 feet, unless the subdivision is platted as a zero lot line development for all housing types. As this plat only allows zero lot line development for townhomes, detached single family would requires 5 foot side setbacks.

The applicant is requesting the reconstruction of a covered rear patio to encroach into the required side setback and to be 1" away from the side property line. The subject patio appears to be a replacement to a previously exiting patio that was built in line with the primary residence on the property line.

### **Code Enforcement History**

No Code Violations at this time.

### **Permit History**

There is no permit on record.

### **Clear Vision Review**

The Clear Vision standard review is not required.

### **Zoning History**

The subject property was annexed to the City of San Antonio by Ordinance 33076, dated March 17, 1965, and was originally zoned as TEMP “A” Temporary Single-Family Residence District. Property was rezoned to “R-5” Single-Family Residence District by Ordinance 51813 dated February 7, 1980. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property converted from “R-5” Single-Family Residence District to the current “R-5” Residential Single-Family District.

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

<b>Existing Zoning</b>	<b>Existing Use</b>
“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Residential

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

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Residential
South	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Residential
East	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Residential
West	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Residential

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

The subject property is in the North Sector Plan and is designated “Suburban Tier” in the future land use component of the plan. The subject property is located within the boundaries of Arboretum Neighborhood Association. As such, they were notified and asked to comment.

### **Street Classification**

Marceline Drive 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 variance requested for the patio side setback is not contrary to the public interest as the patio was already there and the applicant is replacing it.**

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 unnecessary hardship. The patio will be in line with the primary residence and if the variance is not granted the structure would not be capable of reconstruction.**

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 whole neighborhood is built with zero lot line structures. The spirit of the ordinance will be observed and substantial justice will be done.**

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 permitted 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 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. The neighborhood consists of structures built on the property line and the requested variance will be in harmony with the surrounding properties.**

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 circumstances existing on the property were not created by the owner of the property and are not merely financial. The entire area is surrounded by zero lot line structures and the subject patio will be in harmony with the surrounding structure.**

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

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

### **Staff Recommendation**

Staff recommends **Approval** of **BOA-21-10300045** based on the following findings of fact:

1. The subject patio will be in line with the primary structure, and;
2. The subject patio will be consistent with the neighborhood's character of having zero lot line

structures.