



# City of San Antonio

## Agenda Memorandum

**File Number:**21-4488

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**Agenda Item Number:** 3.

**Agenda Date:** 6/21/2021

**In Control:** Board of Adjustment

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Case Number: BOA-21-10300054  
Applicant: Jaime Vasquez  
Owner: Jaime Vasquez  
Council District: 5  
Location: 322 Mockert Street  
Legal Description: Lot S 33 ft of W 42 ft of 11 & S 33 ft of 12, Block 3, NCB 2933  
Zoning: "R-5 MLOD-2 MLR-2 AHOD" Residential Single-Family  
Lackland Military Lighting Overlay Military Lighting  
Region 2 Airport Hazard Overlay District  
Case Manager: Azadeh Sagheb, Senior Planner

### **Request**

A request for 1) a 2,030 square foot lot size variance from the minimum 5,000 square foot requirement, as described in Section 35-310.01, to allow a lot to be 2,970 square feet, 2) a 2'5" variance from the minimum 5' side setback requirement, also described in Section 35-310.01, to allow the structure to be 2'7" away from the side property line, and 3) a 2'10" variance from the minimum 20' rear setback requirement, also described in Section 35-310.01, to allow the structure to be 17'2" away from the rear property line.

### **Executive Summary**

The subject property is located on Mosckert Street, one block away from San Pedro Creek on the west.

In February 2020, the applicant received a permit to build a 300 sq.ft new addition to the rear side of the existing residence. The applicant then demolished the structure and built a new residence out of the scope of work and must now comply with all UDC requirements. During the site visit, staff also noticed the lot size and setback issues.

The property was a portion of a larger lot which was subdivided in 1948 and created a substandard lot with an area of 2,970 square feet, which requires obtaining a variance to comply with the minimum 5,000 sq.ft. The residence is 2'7" away from the northern property line with 1'6" overhang. There is also a water heater closet measuring 2'9" by 2'9" within the rear yard that keeps a portion of rear setback at 17'2". The applicant is

requesting for two setback variances to the minimum setback requirement.

In accordance with the San Antonio City Unified Development Code, the Office of Historic Preservation reviews all demolition applications for any property located within the city limits of San Antonio. Approval of a variance does not imply approval of or take the place of such demolition review as directed by the UDC. To date, no application for demolition at this address to accommodate the proposed use has been submitted for review to the Office of Historic Preservation.

### **Code Enforcement History**

No code enforcement history exists on this property.

### **Permit History**

Permits for the foundation repair and new addition to the rear side have been pulled for the subject property.

### **Clear Vision Review**

A review of Clear Vision is not required for this request.

### **Zoning History**

The property is within the original 36 square miles of the City of San Antonio and was originally zoned as “A” Single-Family Residence District. The subject property was converted to the current “R-5” Residential Single-Family District with the adoption of the 2001 Unified Development Code (UDC), established by Ordinance 93881, on May 3, 2001.

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

Existing Zoning	Existing Use
"R-5 MLOD-2 MLR-2 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Residential

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

Orientation	Existing Zoning District(s)	Existing Use
North	"R-5 MLOD-2 MLR-2 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Residential
South	"R-5 MLOD-2 MLR-2 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Residential

East	"R-5 MLOD-2 MLR-2 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Residential
West	"R-6 MLOD-2 MLR-2 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Residential

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

The subject property is located within the Lone Star Sector Plan and is designated as “Low-Density Residential” in the future land use component of the plan. The subject property is within the boundaries of the Collins Garden Neighborhood Association and as such they were notified.

### **Street Classification**

Mockert Street 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, given the lot constraints, granting the variances for lesser setbacks and a smaller lot size does not seem to be in contrary to the public interest.**
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*  
**A literal enforcement of the ordinance would result in unnecessary hardship. In the absence of variances, the structure needs to be demolished. The lot square footage is below the minimum code requirement, so any development on the lot will require variances.**
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. Approving the requested variances will not detract from the intent of the ordinance to provide safety, beauty, and quality of life in the neighborhood. All intents of this law will be observed.**
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 requested variances will not permit a use not authorized within the district it is located in.**
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 requested variances to reduce the lot size and the side and a portion of rear setback would not substantially injure or alter the use or character of adjacent conforming property or character of the district. The variances would not alter the essential character of the vicinity. The neighboring properties are small lots, and the setback encroachment is common to maximize the use of substandard 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 were not created by the owner of the property and are not merely financial. The plight resulted from the exceptional character of the property, which is its size and it is common within this neighborhood.**

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

The alternative to the applicant's request is to conform to Lot and Setback Dimensions set forth in the Unified Development Code, Section 35-310.01.

### **Staff Recommendation**

Staff recommends **APPROVAL** of **BOA-21-10300054**, based on the following findings of fact:

1. The redevelopment would enhance the neighborhood, and;
2. The substandard lot requires obtaining variances to develop a habitable residence, and;
3. The requested variances will not detract from the character of the district.