



# City of San Antonio

## Agenda Memorandum

**File Number:**21-4960

**Agenda Item Number:** 5.

**Agenda Date:** 8/2/2021

**In Control:** Board of Adjustment

Case Number:	BOA-21-10300087
Applicant:	Edward Montez
Owner:	Edward Montez
Council District:	1
Location:	1538 West French Place
Legal Description:	North IRR 127.66 feet of east 3 feet of Lot 5 & North IRR 102.16 feet of Lot 6, Block 8, NCB 1998
Zoning:	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager:	Michael Pepe, Senior Planner

### **Request**

A request for 1) 4' 1" variance to the required 5' side setback to allow a rear detached accessory structure to be 11" with an 1' overhang on the western side, 2) 3' 10" variance to the required 5' side setback to allow a rear detached accessory structure to be 2'2" with an 7" overhang on the eastern side, 3) a variance to fencing material to allow the rear yard fence to be constructed of corrugated metal, 4) a 2'6" variance to the required 5' side setback to allow for the primary structure to be 3'6" from the side property line, and 5) 4) a 9'10" variance to the required 20' rear setback to allow for the primary structure to be 10'2" from the rear property line with an overhang of 1'3".

### **Executive Summary**

The subject property is located midblock along West French Street. The applicant is requesting a rear setback variance to receive a permit for an existing structure in the rear of the lot. Additionally, staff found a corrugated metal fence is currently constructed along the rear property line. Further, staff found a side setback variance would be necessary to permit the existing wall of the main home which is located 3'6" from the side property line.

### **Code Enforcement History**

There is no relevant code history associated with this property.

**Permit History**

There is no relevant Permit history.

**Zoning History**

The property was a part of the original 36 square miles of the City of San Antonio and originally zoned “B” Residence District. With the adoption of the 2001 Unified Development Code, the “B” converted to “R-4” Residential Single Family District.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
"R-4 AHOD" Residential Single Family Airport Hazard Overlay District	Single-Family Residence

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	"R-4 AHOD" Residential Single Family Airport Hazard Overlay District	Single-Family Residence
South	"MF-33 AHOD" Multi-Family Airport Hazard Overlay District	Single-Family Residence
East	"R-4 AHOD" Residential Single Family Airport Hazard Overlay District	Single-Family Residence
West	"R-4 AHOD" Residential Single Family Airport Hazard Overlay District	Single-Family Residence

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Near Northwest Community Plan and is designated “Urban Low Density Residential” in the future land use component of the plan. The subject property is located within the boundaries of the West End Hope in Action Neighborhood Association.

**Street Classification**

West French Street is classified as a Local Road.

**Criteria for Review - Variance**

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. The proposed**

**addition would not be out of character with the neighborhood in extent and location relative to property lines. The block in question holds multiple properties constructed within the rear setback.**

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

**Literal enforcement of the ordinance would result in unnecessary hardship. The additions are already constructed and the oblique lot makes it difficult to build within the typical setbacks.**

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 side and rear setbacks are intended to prevent runoff onto neighboring properties as well as provide distance from neighboring structures for the purposes of fire safety and maintenance. The property borders a creek right of way to the rear so no other structures will be present in proximity to the requested additions.**

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.*

**If granted, the variance will not alter the essential character of the district, which includes several older structures which are in close proximity to property lines. The proposed additions and existing fence will not be visible from public right of way.**

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 small nature of the property makes it necessary to expand towards the rear property line, which is oblique to the front of the property, due to the presence of the creekway.**

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

The alternative to the applicant's request is to conform to the 5' side setback or 3' side setback with no overhang, the 20' rear setback, and to replace the corrugated metal fence with permitted materials.

### **Staff Recommendation - Variances**

Staff recommends Approval in BOA-21-10300087 based on the following findings of fact:

1. The proposed additions would not be out of character with the neighborhood in extent and location relative to property lines,
2. The addition merely continues the side setback of the existing accessory structure and would not be in proximity to the neighboring structures which mitigates potential impacts of an

approved variance, as does the Presence of the creekway

3. The unusual shape and size of the parcel necessitates a variance for full use of the property