



# City of San Antonio

## Agenda Memorandum

**File Number:**15-3201

**Agenda Item Number:** 9.

**Agenda Date:** 5/18/2015

**In Control:** Board of Adjustment

**Case Number:** A-15-087  
**Applicant:** Allan Young  
**Owner:** Allan Young  
**Council District:** 2  
**Location:** 5711 Seguin Road  
**Legal Description:** Lot 1, Block 1, NCB 17729  
**Zoning:** "I-1 AHOD" General Industrial Airport Hazard Overlay District  
**Case Manager:** Margaret Pahl, AICP Senior Planner

### Request

A request for a ten foot variance from the 30 foot front building setback, as described in Section 35-310.01, to allow a structure to remain 20 feet from the front property line.

### Executive Summary

The subject property is located at 5711 Seguin Road at the intersection of Seguin Road (FM 78) and Tacco Drive. The applicant is seeking a variance to allow a large industrial building to remain 20 feet from the front property line, in the same location where the building was constructed in 1982, per Bexar County Records. Being that the property has remained largely unchanged, and because an expansion is not requested, it is unlikely that granting the variance will result in any harm to the public.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"I-1 AHOD" General Industrial Airport Hazard Overlay District	Warehouse

### Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	UZROW	Rail Road Tracks
South	"OCL" Outside City Limits	Vacant

East	“I-1 AHOD” General Industrial Airport Hazard Overlay District and “C-3 AHOD” General Commercial Airport Hazard Overlay District	Single-Family Dwelling
West	“OCL” Outside City Limits	Construction Company

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

The property is not within the boundaries of any neighborhood plan. The subject property is not located within the boundaries of any registered neighborhood association.

### **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, these criteria are represented by setback requirements to ensure equal access to air and light. The subject property has been located in its current location since 1982. Granting a variance to recognize the structure as legal, non-conforming is unlikely to represent any challenge to the public health, safety, or welfare.**

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

**The special condition present in this case is that the building has been non-conforming for 25 years. Over those years, staff has been unable to determine even one case where the location of the structure has presented a problem to the public. A literal enforcement of the ordinance would require that the applicant remove ten feet of the structure to create the 30 foot setback. Staff finds that this would constitute an unnecessary hardship.**

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

**Granting the requested variance would result in substantial justice as the variance would allow the warehouse to be purchased and used once again.**

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 variance will not authorize the operation of a use on the subject property other than those specifically permitted in the “I-1 AHOD” General Industrial 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 building retains a 20 foot setback from the property line, and about 30 feet from the street. As such, the building does not encroach to an unsafe degree. The applicant is not requesting any expansion of the structure further into the setback, only seeking assurance that the existing conditions are recognized by the city as a legal, non-conforming structure.**

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 present in this case is that the building has been non-conforming for 25 years. This problem is not merely financial in nature, nor is it the fault of the applicant.**

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

The applicant needs to remove ten feet of the structure to come into compliance with the Unified Development Code.

### **Staff Recommendation**

Staff recommends **APPROVAL of A-15-087** based on the following findings of fact:

1. The existing conditions have been in place since 1982 without causing any issues;
2. Granting the variance would permit the use of the structure once again.