



# City of San Antonio

## Legislation Details (With Text)

**File #:** 18-3985

**Type:** Zoning Case

**In control:** Board of Adjustment

**On agenda:** 6/18/2018

**Title:** A-18-105: A request by Cotton Estes for 1) a 15' variance from the 20' rear setback to allow an addition to be 5' from the rear property line and 2) a 4'1" variance from the 5' side setback to allow an in-line addition to be 11" from the side property line, located at 308 South Mesquite Street. Staff recommends Approval. (Council District 2)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A-18-105 Attachments

Date	Ver.	Action By	Action	Result
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Case Number: A-18-105

Applicant: Cotton Estes

Owner: Cotton Estes

Council District: 2

Location: 308 South Mesquite Street

Legal Description: The North 40.65 Feet of Lot 9, Block 1, NCB 609

Zoning: "RM-4 AHOD" Residential Mixed Airport Hazard Overlay District

Case Manager: Debora Gonzalez, Senior Planner

### Request

A request for 1) a 15' variance from the 20' rear setback, as described in Section 35-310.01, to allow an addition to be 5' from the rear property line and 2) a 4'1" variance from the 5' side setback, as described in Section 35-310.01, to allow an in-line addition to be 11" from the side property line.

### Executive Summary

The subject property is located at 308 South Mesquite Street, approximately 90 feet north of Kansas Street. The applicant intends to restore the home, which is approximately 550 square feet, to livable conditions while respecting the existing structure; they propose to extend 10' towards the rear property line to accommodate a 120 square foot addition consisting of one bathroom and a closet. The proposed addition would bring the total building area to 700 square feet. The applicant states that during 2005-2015, there was a previous addition by a previous owner in the same location as proposed, which was torn down in 2015. The proposed addition is still smaller than the previous addition, and will strictly maintain a 5' rear setback. 5' setbacks are no unheard of;

they are permitted in the “IDZ” Infill Development Zone District.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“AE-2 AHOD” Arts and Entrainment Airport Hazard Overlay District	Vacant
South	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Vacant
East	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling
West	“AE-2 AHOD” Arts and Entrainment Airport Hazard Overlay District	Single-Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The property is within the boundaries of the Downtown Neighborhood Plan and currently designated as Residential in the future land use component of the plan. The subject property is within the Alamodome Gardens Neighborhood Association. As such, they were notified and asked to comment.

**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 existing structure is 11” from the side property line and the addition aligns with the existing footprint. Staff finds the request is not contrary to the public interest.**

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

**The existing structure footprint is very small and additional living space is required to make this house habitable. According to the applicant, the house has been vacant since 2015 when the previous addition was torn down. A literal enforcement of the ordinance would render the property nearly undeveloped. Staff finds that relief is warranted.**

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 requirement rather than the strict letter of the law. The applicant is not seeking the complete elimination of any setback, merely to allow for an addition in-line with the historic home. Staff finds that the request adheres to the intent of the requirements, especially considering that the new construction will need to meet all current building codes.**

4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the district in which the request for a variance is located.*

**The variance will not authorize the operation of a use other than those uses specifically authorized in the “RM-4 AHOD” Residential Mixed 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 addition will not detract from the neighborhood as the addition will not deviate from the existing side setback and further, the rear addition is unlikely to go noticed. Specifically, the variance would not place the structures out of character within the community. Many homes within this community were built prior to the establishment of required setbacks.**

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 in this case is the original dwelling layout on the lot which restricts the owner’s ability to construct any addition without encroaching into the side and rear setbacks. This issue is not merely financial in nature.**

### **Alternative to Applicant’s Request**

The alternative to the applicant’s plan would be to comply with the side building setbacks as defined within Section 35-310.01.

### **Staff Recommendation**

Staff recommends **APPROVAL** of the variance in **A-18-105**, based on the following findings of fact:

1. The request does not negatively impact surrounding property owners and does not significantly alter the appearance of the district; and

2. The proposed addition maintains the existing side setback.