



# City of San Antonio

## Legislation Details (With Text)

**File #:** 18-1637

**Type:** Zoning Case

**In control:** Board of Adjustment

**On agenda:** 2/5/2018

**Title:** A-18-028: A request by Martin and Sandra Gomez for 1) a 560 square foot variance from the 800 square foot Accessory Dwelling Unit maximum size to allow an accessory dwelling unit to be 1,360 square feet in size and 2) a variance from the requirement that an Accessory Dwelling Unit be located in the side or rear yard of the primary dwelling to allow the Accessory Dwelling Unit to be located in front of the primary dwelling, located at 358 W. Mayfield Boulevard. Staff recommends Denial. (Council District 3)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A-18-028 Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** A-18-028

**Applicant:** Martin and Sandra Gomez

**Owner:** Martin and Sandra Gomez

**Council District:** 3

**Location:** 358 W. Mayfield Boulevard

**Legal:** Lot 287, NCB 7851

**Description:**

**Zoning:** "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District

**Case Manager:** Debora Gonzalez, Senior Planner

### Request

A request for a 560 square foot variance from the 800 square foot Accessory Dwelling Unit maximum size, as described in Section 35-371, to allow an accessory dwelling unit to be 1,360 square feet in size and 2) a variance from the requirement that an Accessory Dwelling Unit be located in the side or rear yard of the primary dwelling, as described in Section 35-370, to allow the Accessory Dwelling Unit to be located in front of the primary dwelling.

### Executive Summary

The applicant currently has a 1,360 square foot home on the subject property, which consists of a large lot, being 44,216 square feet (1.0153 acres). The applicant wishes to build a second home on the property, which will be approximately 4,000 square feet in size. The applicant is seeking two variances. The first variance is requested to allow the existing single-family home to be used as the accessory dwelling unit, which would require a 560 square foot variance from the 800 square foot maximum accessory dwelling unit limitation, to

allow the existing 1,360 square foot footprint to remain. The second variance seeks to permit the existing house, which under the applicant’s plan, will convert into an accessory dwelling unit, to remain in front of the new, 4,000 square foot home whereas the Unified Development Code requires that accessory units be located in the side or rear yard.

Generally, the variance requests seek to undermine the zoning of the property, and the applicant is nearly asking the Board of Adjustment for a use variance; granting the requested variance will effectively allow two single-family homes on the subject property, which is not permitted by the “R-4” Residential Single-Family base zoning district. Accessory dwelling units are limited to one bedroom; the current home, which will become the accessory under the development proposal, currently has three.

Because the applicant has such a large lot, staff would recommend that the owner re-plat the large lot into two smaller lots, each zoned “R-4” Residential Single-Family District, and proceed with the development of the new home on its own lot. Further, the applicant could seek a zoning change to a zoning district that permits two dwelling units on one lot.

**Subject Property Zoning/Land Use**

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

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
South	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
East	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
West	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The property is within the boundaries of the South Central San Antonio Community Plan and designated for Low Density Residential in the future land use component of the plan. The subject property is not located within the boundaries of a 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.*

Accessory detached dwelling units are designed to provide affordable housing for the elderly, single-person households, students, and other needy populations. In order to meet this need, the City of San Antonio permits

carefully controlled accessory housing in single-family residential zoning districts. The regulations are further designed to ensure that accessory detached dwelling units are subordinate and incidental to the primary residential structure on the property. In the applicant's case, although the proposed structure is smaller than the primary residence, the proposed dwelling does not meet either the definition of subordinate or incidental to the primary structure, and as such is contrary to the public interest.

The applicant could subdivide the property into two, roughly 20,000 square foot lots, which is five times the minimum requirement, and develop the new home on a separate, platted lot, or rezone.

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

There are no special conditions readily apparent to warrant the granting on the requested variance. Though the subject property is sufficiently large enough to accommodate both structures, the applicant has another option to re-plat the property to allow for an additional dwelling unit.

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

The spirit of the ordinance will not be observed by granting the variance as the relative size of the proposed accessory detached dwelling unit, although smaller than the primary structure, will not appear subordinate to the passersby.

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 variance nearly seeks permission for a use not authorized by the zoning district applicable to the property. The request seeks the Board's permission to utilize two single-family homes on a single-family lot.

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.*

Allowing an accessory dwelling unit in the front of the primary home is not only contrary to code requirements, but may detract from the character of the community. However, should the applicant subdivide the existing 44,216 lot into two equal halves, a single-family home would be permitted on each.

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 is unable to identify any unique circumstance that warrants granting the requested variance. The applicant has options to pursue within the code without needing a variance.

### **Alternatives to Applicant's Request**

The alternative to the applicant's request is to request rezoning from the Zoning Commission and the City Council to allow a second dwelling unit on the property or to re-plat the property.

### **Staff Recommendation**

Staff recommends **DENIAL of A-18-028** because of the following reasons:

1. The request is very nearly seeking a use variance, and;
2. The applicant has several other options to pursue that do not require a variance, including re-platting and rezoning.