



# City of San Antonio

## Legislation Details (With Text)

**File #:** 20-3165  
**Type:** Staff Briefing - Without Ordinance  
**In control:** Board of Adjustment

**On agenda:** 5/18/2020

**Title:** BOA-20-10300028: A request by Hiram Garcia Munoz for a 136 square foot variance from the maximum 40% allowance for Accessory Detached Dwelling Units (ADDU) to allow an ADDU to be 550 square feet, located 446 Demya Drive. Staff recommends Approval. (Council District 4) (Kayla Leal, Senior Planner, (210) 207-0197, Kayla.Leal@sanantonio.gov, Development Services Department)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Attachment

Date	Ver.	Action By	Action	Result
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**Case Number:** BOA-20-10300028  
**Applicant:** Hiram Garcia Munoz  
**Owner:** Hiram Garcia Munoz  
**Council District:** 4  
**Location:** 446 Demya Dr.  
**Legal Description:** Lot 26, Block 26, NCB 15434  
**Zoning:** "R-6 MLOD-2 MLR-1 AHOD" Residential Single-Family  
 Lackland Military Lighting Overlay Military Lighting  
 Region 1 Airport Hazard Overlay District  
**Case Manager:** Kayla Leal, Senior Planner

### Request

A request for a 136 square foot variance from the maximum 40% allowance for Accessory Detached Dwelling Units (ADDU) to allow an ADDU to be 550 square feet.

### Executive Summary

The subject property is located on Demya Dr., in close proximity to Highway 90 and Loop 410. The applicant is requesting the variance to the square footage allowance for Accessory Detached Dwelling Units (ADDU). The code currently allows a maximum of 40% of the square footage of the primary structure. In this case, the maximum square footage allowed would be 414 square feet. The applicant is requesting a 136 square foot variance to allow the ADDU to be 550 square feet large.

### Code Enforcement History

There is no relevant code enforcement history on file for the property.

**Permit History**

There are no relevant permits pulled for the property.

**Zoning History**

The subject property was annexed into the City of San Antonio by Ordinance 79035, dated December 31, 1993 and was zoned Temporary “R-1” Temporary Single Family District. The zoning changed to “R-1” Single Family Residence District, established by Ordinance 80479, dated July 14, 1994. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 3, 2001, the property zoned “R-1” Single Family Residence District was converted to the current “R-6” Residential Single Family District.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“R-6 AHOD” Residential Single Family Airport Hazard Overlay District	Single family residence

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6” Residential Single Family District	Single family residence
South	“R-6” Residential Single Family District	Single family residence
East	“R-6” Residential Single Family District	Single family residence
West	“R-6” Residential Single Family District	Single family residence

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the West/Southwest Sector Plan and is designated “Suburban Tier” in the future land use component of the plan. The subject property is in the boundaries of the Rainbow Hills Neighborhood Association and as such, they were notified of the case.

**Street Classification**

Demya Drive 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, the variance is not contrary to the public interest as the applicant is proposing to construct an Accessory Detached Dwelling Unit that will have the same roof slope and pitch as the primary structure.**

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

**Staff finds that any special conditions that, if enforced, would result in an unnecessary hardship. The applicant is limited to a 414 square foot ADDU with a literal enforcement of the ordinance and is requesting the variance to allow an additional 136 square feet.**

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 intent of the ADDU square footage limitation is to limit oversized structures in the rear yard. In this case, the applicant is only requesting an additional 136 square feet, so the spirit of the ordinance will be maintained and 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.*

**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.*

**The request to increase the square footage limitation does not pose a risk of substantially injuring the use of adjacent properties and does not seem likely to alter the essential character of the district.**

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 applicant was informed of the limitations incurred by the ordinance and submitted the request for a variance prior to construction.**

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

The alternative to the applicant's request is to conform to the Accessory Detached Dwelling Unit size requirements of the UDC Section 35-371.

### **Staff Recommendation**

Staff recommends **Approval** of the zoning variance in **BOA-20-10300028** based on the following findings of fact:

1. The applicant is requesting an additional 136 square feet to the Accessory Detached Dwelling Unit.
2. The proposed structure will not exceed the Accessory Structure square footage limitation.
3. The proposed ADDU will maintain the character of the neighborhood by including a similar roof pitch and slope in the design of the ADDU.