



# City of San Antonio

## Legislation Details (With Text)

**File #:** 19-2370

**Type:** Zoning Case

**In control:** Board of Adjustment

**On agenda:** 3/4/2019

**Title:** BOA-19-10300003: A request by Matthew Garcia for an 8' variance from the 20' rear setback requirement to allow an attached addition to be 12' from the rear property line, located at 231 Oelkers Street. Staff recommends Approval. (Council District 5)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. BOA-19-10300003 Attachments

| Date | Ver. | Action By | Action | Result |
|------|------|-----------|--------|--------|
|------|------|-----------|--------|--------|

**Case Number:** BOA-19-10300003

**Applicant:** Matthew Garcia

**Owner:** Richard F. Garcia

**Council District:** 5

**Location:** 231 Oelkers Street

**Legal:** Lot 12, NCB 7564

**Description:**

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

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

### Request

A request for an 8' variance from the 20' rear setback requirement, as described in Section 35-310.01, to allow an addition to be 12' from the rear property line.

### Executive Summary

The subject property is located at 231 Oelkers Street, approximately 645 feet west of Probandt Street. The applicant has an existing attached deck 12' away from the rear property line and is proposing to enclose the existing deck to expand the existing structure. The applicant will comply with the front and side setback requirements.

### Code Enforcement History

No Code Enforcement history exists on the property.

**Permit History**

The applicant is waiting for variance to be approved to so that permits can be issued and he can begin renovations.

**Subject Property Zoning/Land Use**

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

**Surrounding Zoning/Land Use**

| Orientation | Existing Zoning District(s)   | Existing Use           |
|-------------|---|------------------------|
| North       | “R-6 AHOD” Residential Single-Family<br>Airport Hazard Overlay District | Single-Family Dwelling |
| South       | “R-6 AHOD” Residential Single-Family<br>Airport Hazard Overlay District | Single-Family Dwelling |
| East        | “R-4 AHOD” Residential Single-Family<br>Airport Hazard Overlay District | Single-Family Dwelling |
| West        | “R-4 AHOD” Residential Single-Family<br>Airport Hazard Overlay District | Single-Family Dwelling |

**Comprehensive Plan Consistency/Neighborhood Association**

The property is located within the boundaries of the Lone Star Community Plan and currently designated as “Low Density Residential” in the future land use component of the plan. The subject property is located within the Lone Star Neighborhood Association. As such they were notified and asked to comment.

**Street Classification**

Oelkers 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:

- 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 12’ away from the rear property line and the addition aligns with the existing footprint. Staff finds the request is not contrary to the public interest.**
- Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*  
**A literal enforcement of the ordinance would result in unnecessary hardship by requiring the existing deck to be moved to meet the rear setback.**

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*  
**The intent of rear setback is to create an open area without crowding of structures and to establish uniform development standards to protect the rights of property owners. The addition will not significantly disrupt uniformity and will not injure the rights of adjacent property owners.**
  
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 zoning 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 setbacks 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 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 rear building setbacks as defined within Section 35-310.01.

#### **Staff Recommendation**

Staff recommends **APPROVAL** of the variance in **BOA-19-10300003**, 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 setbacks.