



# City of San Antonio

## Legislation Details (With Text)

**File #:** 18-1933

**Type:** Zoning Case

**In control:** Board of Adjustment

**On agenda:** 2/19/2018

**Title:** A-18-034: A request by Irma Silva for a five foot and six inch variance from the 20 foot rear setback to allow an addition to be 14 feet and six inches from the rear property line, located at 829 South San Bernardo. Staff recommends Approval. (Council District 5)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A-18-034 Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** A-18-034

**Applicant:** Irma Silva

**Owner:** A Est. of Elida Sanchez

**Council District:** 5

**Location:** 829 South San Bernardo

**Legal:** East 86.65 feet of Lot 15 and 16, Block 14, NCB 8979

**Description:**

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

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

### Request

A request for five foot six inch variance from the 20 foot rear setback, as described in Section 35-310.01, to allow an addition to be fourteen feet and six inches from the rear property line.

### Executive Summary

The subject property is located at 829 South San Bernardo, 353 feet south of Wall Street. The property owner is requesting a variance to allow the rear setback to be reduced by five foot six inches. Due to health factors of the owner, a storage addition attached to the main structure was built to allow easy navigation of the property.

### 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**

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“R-4 AHOD CD” Residential Single-Family Airport Hazard Overlay District Conditional Use for a Duplex	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 West/Southwest Sector Plan and currently designated as General Urban Tier in the future land use component of the plan. The subject property is not located within 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.*  
**The public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by setbacks to prevent fire spread and to protect adjacent property owners. The addition encroaches into the 20 foot setback by only five and a half feet. Further, the addition will provide room for maintenance without trespass and will not produce water runoff on the adjacent property. As several residential districts permit as little as a ten feet rear seatback, 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.*  
**A literal enforcement of the ordinance would not allow the owner of the property to expand the primary dwelling to serve as storage as the setback does not allow ample space without encroaching upon the rear setback limitations.**
- 3. By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*  
**The intent of rear setbacks is to create an open area without crowding of structures and to establish uniform development standards to protect the rights of property owners. The rear 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 “R-4 AHOD” Residential Single Family 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 rear addition will not significantly deviate from the rear setback. Further, the rear addition is unlikely to go noticed. The rear addition will not produce water runoff on adjacent properties and will not require trespass to maintain the 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 in this case is the small lot size which restricts the owner's ability to construct any addition without encroaching into the rear setback.*

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

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

#### **Staff Recommendation**

Staff recommends **APPROVAL of the requested rear setback variance in A-18-034**, based on the following findings of fact:

1. That the proposed addition, even with the variance, will maintain a 5 foot 7 inch side setback and will not impede or trespass onto the neighbor's property, and;
2. The variance seeks to allow an addition that is 14' 6" from the rear property line, and several residential districts only requires a ten foot rear setback.