



# City of San Antonio

## Legislation Details (With Text)

**File #:** 18-2682

**Type:** Zoning Case

**In control:** Board of Adjustment

**On agenda:** 4/2/2018

**Title:** A-18-057: A request by Joel D. Shoemaker for a four foot variance from the five foot side setback to allow a garage to be one foot away from the side property line, located at 530 Overhill Drive. Staff recommends Denial with an Alternate Recommendation. (Council District 7)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A-18-057 Attachments

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

**Case Number:** A-18-057

**Applicant:** Joel D. Shoemaker

**Owner:** Joel D. Shoemaker

**Council District:** 7

**Location:** 530 Overhill Drive

**Legal:** Lot 72, Block 8, NCB 9652

**Description:**

**Zoning:** "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District

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

### Request

A request for a four foot variance from the five foot side setback, as described in Section 35-370, to allow a garage to be one foot away from the side property line.

### Executive Summary

The subject property is located at 530 Overhill Drive, 455 feet west of NW 36<sup>th</sup> Street. The applicant was issued a citation by Code Enforcement for a new metal enclosed garage built without a permit. The applicant is seeking a variance to reduce the side setback to keep the garage from five feet to one foot away from the side property line. If the Board approves the variance, the applicant will be required to hire a structural engineer that will confirm the soundness of the structure before a permit is issued.

### Subject Property Zoning/Land Use

|                        |                     |
|------------------------|---------------------|
| <b>Existing Zoning</b> | <b>Existing Use</b> |
|------------------------|---------------------|

|  |                        |
|--|------------------------|
| “R-5 AHOD” Residential Single-Family Airport Hazard Overlay District | Single-Family Dwelling |
|--|------------------------|

**Surrounding Zoning/Land Use**

| Orientation | Existing Zoning District(s)  | Existing Use           |
|-------------|--|------------------------|
| North       | “R-5 AHOD” Residential Single-Family Airport Hazard Overlay District | Single-Family Dwelling |
| South       | “R-5 AHOD” Residential Single-Family Airport Hazard Overlay District | Single-Family Dwelling |
| East        | “R-5 AHOD” Residential Single-Family Airport Hazard Overlay District | Single-Family Dwelling |
| West        | “R-5 AHOD” Residential Single-Family Airport Hazard Overlay District | Single-Family Dwelling |

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is within the boundaries of the West/Southwest Sector Plan and currently designated General Urban Tier in the future land use component of the plan. The subject property is located within the University Park 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 served by setbacks, which help to provide consistent development within the City of San Antonio. The applicant is seeking a variance to allow the garage to be one foot from the west side property line. This setback fails to provide adequate fire separation distances, provides no room for maintenance, and may drain water onto adjacent property. Staff finds that the garage, as built, is contrary to the public interest.

**Staff supports reducing the side setbacks to three feet, which would provide adequate room for maintenance and would provide better separation for fire spread and rainwater runoff.**

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

Staff is unable to establish any special condition that warrants reducing the rear setback to one foot.

**The applicant could modify the garage to have a three foot side setback.**

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 code, rather than the strict letter of the law. The intent of the code is to provide for consistent development and to establish room for maintenance, and to reduce the threat of fire spread. The requests to reduce the side setback do not observe the intent of the code.

**Staff supports a modified setback reduction to three feet, as it address these concerns.**

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 variance will not authorize the operation of a use other than those uses specifically authorized by the “R-5 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.*

While other structures in the neighborhood enjoy reduced setbacks, staff cannot support a one foot side setback. It poses immediate risk to adjacent property and leaves no room for maintenance of the structure.

**The garage could be modified to allow garage structure at three feet, which would address the concerns related to maintenance and drainage.**

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 determine unique circumstances existing on the site. The garage should be designed in a manner that respects the intent of the code.

**The applicant could increase the setback to three feet and still have a 31 foot garage which does not impose any immediate threat of water runoff or fire spread on adjacent properties.**

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

The alternative to the applicant’s request would be to adhere to the accessory structure setback regulations in section 35-370.

### **Staff Recommendation**

Staff recommends **DENIAL** of the variance requests with an **ALTERNATE RECOMMENDATION in A-18-057** based on the following findings of fact:

1. The garage is contrary to the public interest in that it fails to provide room for maintenance, may drain water onto adjacent property, and may increase the threat of fire spread, and;
2. A three foot side setback would address these development concerns.