



# City of San Antonio

## Legislation Details (With Text)

**File #:** 20-7028

**Type:** Staff Briefing - Without Ordinance

**In control:** Board of Adjustment

**On agenda:** 12/7/2020

**Title:** BOA-20-10300108: A request by Rudy Trevino for a 2' variance to the minimum 5' side setback requirement to allow a structure to be 3' away, with overhang 1' away, from the side property line, located at 311 Thorman Place. Staff recommends Approval. (Council District 2) (Kayla Leal, Senior Planner (210) 207-0197, kayla.leal@sanantonio.gov, Development Services Department)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Attachments

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

plCase Number:	BOA-20-10300108
Applicant:	Rudy Trevino
Owner:	Rudy Trevino
Council District:	2
Location:	311 Thorman Place
Legal Description:	Lot 17, NCB 6562
Zoning:	"R-4 NCD-6" Residential Single-Family Mahncke Park Neighborhood Conservation District
Case Manager:	Kayla Leal, Senior Planner

### Request

A request for A request for a 2' variance to the minimum 5' side setback requirement, as described in Section 35-310.01, to allow a structure to be 3' away, with overhang 1' away, from the side property line.

### Executive Summary

The subject property is located on Thorman Place and there is currently a single-family residence on the property. The applicant is requesting the variance to the side setback for a proposed accessory structure in the rear yard. There is an existing concrete slab where a previous accessory structure stood, so the applicant is proposing to rebuild the structure on the existing slab. The edge of the slab and the proposed structure are three feet away from the side property line, and the applicant is requesting the overhang of the structure to be 1' away from the side property line. The subject property is located within the Mahncke Park Neighborhood

Conservation District, which specifies that the design of the accessory structure must have a similar style to the primary structure. The applicant has stated he will meet all design guidelines for the accessory structure.

**Code Enforcement History**

There are no Code Enforcement issues pertaining to this case.

**Permit History**

There are no relevant permits pulled for the property.

**Zoning History**

The subject property was in the Original City Limits of San Antonio and was zoned “B” Residence District. The zoning converted from “B” to the current “R-4” Residential Single-Family District upon adoption of the 2001 Unified Development Code (Ordinance 93881, dated May 3, 2001).

**Subject Property Zoning/Land Use**

<b>Existing Zoning</b>	<b>Existing Use</b>
“R-4 NCD-6” Residential Single-Family Mahncke Park Neighborhood Conservation District	Single family residential

**Surrounding Zoning/Land Use**

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“R-4 NCD-6” Residential Single-Family Mahncke Park Neighborhood Conservation District	Single family residential
South	“R-4 NCD-6” Residential Single-Family Mahncke Park Neighborhood Conservation District	Single family residential
East	“R-4 NCD-6” Residential Single-Family Mahncke Park Neighborhood Conservation District	Single family residential
West	“R-4 NCD-6” Residential Single-Family Mahncke Park Neighborhood Conservation District	Single family residential

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Midtown Regional Center Plan and is designated “Urban Low Density Residential” in the future land use component of the plan. The subject property is located within the Mahncke Park Neighborhood Association, and they have been notified of this case.

### Street Classification

Thorman Place is classified as a Local Road.

### 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 requested for the side setback encroachment of the accessory structure is not contrary to the public interest as the structure will still maintain 3' of distance to the property line and the overhang will be 1' away.**

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. There is currently a concrete slab where an accessory structure was previously constructed and the applicant is proposing to build the new structure on the same slab.**

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 side setbacks is to provide spacing between neighboring structures. The applicant will still maintain some space between structures with a 3' variance.**

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 reduce the side setback 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.*

**Staff finds that the applicant is requesting the variance to rebuild an accessory structure that was previously on the property. The unique circumstances existing on the property were not created by the owner of the property and are not merely financial.**

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

The alternative to the applicant's request is to conform to the Lot & Setback Dimensions of the UDC Sections 35-310.01.

### **Staff Recommendation**

Staff recommends **Approval** in **BOA-20-10300108** based on the following findings of fact:

1. The property has an existing concrete slab located 3' away from the side property line; and
2. There is adequate space between the proposed structure and the structure on the abutting property; and
3. The proposed accessory structure will abide by Mahncke Park Neighborhood Conservation District design guidelines.