



# City of San Antonio

## Legislation Details (With Text)

**File #:** 19-8077

**Type:** Zoning Case

**In control:** Board of Adjustment

**On agenda:** 11/4/2019

**Title:** BOA-19-10300126: A request by Nicholas Van Delist for a 2’ variance from the 5’ side and rear setback requirement to allow a detached garage to be 3’ from the side and rear property lines and eaves to be projected 1’ from the side and rear property lines, located at 509 West Gramercy Place. Staff recommends Approval. (Council District 1) (Rachel Smith, Planner (210) 207- 5407, rachel.smith@sanantonio.gov, Development Services Department)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. 19-10300126 Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** BOA-19-10300126

**Applicant:** Nicholas Van Delist

**Owner:** Nicholas Van Delist

**Council District:** 1

**Location:** 509 West Gramercy Place

**Legal:** Lots 35-37, Block 9, NCB 6431

**Description:**

**Zoning:** “R-6 NCD-2 AHOD” Residential Single-Family Alta Vista  
NCD Airport Hazard Overlay District

**Case Manager:** Rachel Smith, Planner

### Request

A request for a 2’ variance from the 5’ side and rear setback requirement described in Section 35-310.01 to allow a detached garage to be 3’ from the side and rear property lines and eaves to be projected 1’ from the side and rear property lines.

### Executive Summary

The subject property is located at 509 West Gramercy Place near Breeden Street. Properties on the street are a mix of single family and multi-family dwellings. The applicant is seeking the variance to build a detached garage with projecting architectural features in the rear yard of the property. Because the detached garage will have projecting architectural features, it must abide by the five foot setback, which is why the applicant is applying for a variance.

In 2017, the applicant demolished their accessory structure and is now seeking to build a detached garage. The rear yard

has an underground pool and limited space to accommodate the detached garage. The applicant has proposed building the detached garage over two lot lines and has been informed of the need to apply for a Certificate of Determination to build the project as proposed.

**Zoning History**

The subject property is located within the original thirty-six square mile area of San Antonio and was zoned “A” Single Family District. The subject property was rezoned to “R-1” Single Family Residential District by Ordinance 86704 on September 25, 1997. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “R-1” Single Family District converted to the current “R-6” Single Family District.

**Code Enforcement History**

No code enforcement history exists on this property.

**Permit History**

The applicant obtained a demolition permit on January 30, 2017 for an accessory structure. There is no permit history for the detached garage, the applicant is seeking the variance prior to applying for the permit.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“R-6 NCD-2 AHOD” Residential Single-Family Alta Vista Neighborhood Conservation Airport Hazard Overlay District	Single-family dwelling

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“RM-4 NCD-2 AHOD” Residential Mixed Use Alta Vista Neighborhood Conservation Airport Hazard Overlay District	Single-family dwelling
South	“RM-4 NCD-2 AHOD” Residential Mixed Use Alta Vista Neighborhood Conservation Airport Hazard Overlay District	Single-family dwelling
East	“R-6 NCD-2 AHOD” Residential Single-Family Alta Vista Neighborhood Conservation Airport Hazard Overlay District	Single-Family dwelling
West	“R-6 NCD-2 AHOD” Residential Single-Family Alta Vista Neighborhood Conservation Airport Hazard Overlay District	Single-Family dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is designated as “Low Density Residential” in the future land use component of the Midtown Plan. This property is in the boundaries of the Alta Vista Neighborhood Association who were notified regarding the requested variance.

**Street Classification**

Gramercy Place 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 public interest is represented by setbacks that maintain neighborhood character. The with the remaining three feet the applicant still has enough space to allow for long term maintenance of the structure without trespass. The structure will be in similar character to the primary structure in accordance with the NCD requirements and the structure will not be visible from the street.**

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

**The structure will be located in the rear yard of the property and due to the location of the underground pool, the only space for a detached garage to exist is where the applicant has proposed. If the structure was to be placed in a different location it would cause difficulty driving into and out of the garage.**

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 establish cohesive development that preserves the public interest. The request to reduce the side and rear setback observes the intent of the code as the property complies with other requirements in neighborhood design and similar placements are found within the neighborhood.**

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-6” Residential Single Family 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 request will not injure the rights of neighboring properties as the reduction does not detract from the character of the neighborhood. There is still space for proper water runoff on the property and maintenance without trespassing on adjacent property.**

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 existing here is not the fault of the owner of the property, nor is it due to, or the result of, general conditions in the community in which it is located.**

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

The alternative to the applicant’s request is to conform to the setback limitations established by the Unified Development

Code Section 35-310.01.

**Staff Recommendation**

Staff recommends **APPROVAL** of the variance in **BOA-19-10300126**, based on the following findings of fact:

1. The proposed project will not detract from the community character of the community.
2. The applicant still has remaining space to allow for long term maintenance without trespass and for adequate stormwater runoff on the property.