



# City of San Antonio

## Legislation Details (With Text)

**File #:** 17-2436

**Type:** Zoning Case

**In control:** Board of Adjustment

**On agenda:** 4/3/2017

**Title:** A-17-077: A request by Jesus Vargas for a 3 foot variance from the 5 foot side setback to allow a home 2 feet from the side property line, located at 4608 Alma Drive. Staff recommends Approval. (Council District 3)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. site plan, 2. 17-077 Aerial Map, 3. 17-077 Plot Plan, 4. Photos

Date	Ver.	Action By	Action	Result
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**Case Number:** A-17-077

**Applicant:** Jesus Vargas

**Owner:** Juanita Elizondo

**Council District:** 3

**Location:** 4608 Alma Drive

**Legal:** Lot 9, NCB 10849

**Description:**

**Zoning:** "R-20" Residential Single-Family District

**Case Manager:** Oscar Aguilera, Planner

### Request

A request for a three (3) foot variance from the foot five (5) foot side setback to allow a home 2 feet from the side property line setback, as described in Section 35-310.01.

### Executive Summary

The applicant advised that the property belongs to her mother. The applicant wants to move to the property in order to take care of the elderly mother. Currently, there are two existing homes in the property. The applicant is proposing an addition in order to make the two properties into one single-family home. The proposed addition complies with the five (5) foot setback requirement. However, one of the existing homes that were built in 1952 does not comply with the current setback. This home is the rear home and it encroaches in to the 5 foot setback requirement by three (3) feet. There is power line utility easement that encompasses a big portion of the lot. This easement prevents the applicant from changing the location of the proposed addition. All of the new construction will satisfy minimum setbacks.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-20” Residential Single-Family District	Single-Family Dwelling

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“R-5” Residential Single-Family District	Farm
South	“R-20” Residential Single-Family District	Single-Family Dwellings
East	“R-20” Residential Single-Family District	Single-Family Dwellings
West	“R-20” Residential Single-Family District	Single-Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The property is within the boundaries of the Eastern Triangle 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 boundaries of the Lower Southeast Side 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 Board of Adjustment must find that the request meets each of the six following conditions:

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 the distance from the property line to ensure appropriate setbacks. Staff finds that the requested variance is not contrary to the public interest.**

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

**The literal enforcement of the ordinance would result in unnecessary hardship since power line utility easement (special condition) prevents the applicant from placing the addition other than the proposed location. In addition, since the applicant’s addition complies with the current setback requirements and the property complied with the regulations when the property was built in 1952 (special condition), meeting the required setbacks for the new addition would result in unnecessary hardship.**

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

**Because the addition will comply with the setback requirements and because the power line utility easement prevents the applicant from placing the addition other than the proposed location, staff finds that the granting of the requested variance will observe the spirit of the ordinance.**

4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*

**The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the “R-20” Residential Single-Family 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 granting of the variance is unlikely to harm adjacent conforming property because the addition will comply with the current setback requirements; the existing 1952 structure has not harmed adjacent properties in 65 years and is over 10 feet away from the nearest 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.*

**Staff finds that the unique circumstances present in this case are; 1) the power line utility easement; 2) the proposed addition will comply with the current setback requirements; 3) the existing 1952 structure currently encroaching into the setbacks due to regulations after its construction; 4) the distance between the structures and the neighboring home is more than 10 feet; 5) The plight of the owner of the property is not merely financial in nature.**

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

The owner will need to comply with the setback requirements.

#### **Staff Recommendation**

Staff recommends **approval of the side setback variance requested in A-17-077** based on the following findings of fact:

1. The proposed addition will comply with the current setback requirements;
2. There is power line utility easement that encompasses a big portion of the lot. This easement prevents the applicant from changing the location of the propose addition;
3. The existing 1952 structure currently encroaching into the setbacks due to regulations after its construction;
4. The distance between the structures and the neighboring home is more than 10 feet.
5. The plight of the owner of the property is not merely financial in nature