



# City of San Antonio

## Legislation Details (With Text)

**File #:** 17-2681  
**Type:** Zoning Case  
**In control:** Board of Adjustment  
**On agenda:** 4/17/2017  
**Title:** A-17-085: A request by Tina Marti for a variance to allow an accessory structure in the front yard, located at 2848 Nacogdoches Road. Staff recommends Approval. (Council District 10)  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** 1. Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** A-17-085  
**Applicant:** Tina Marti  
**Owner:** Luis and Tina Marti  
**Council District:** 10  
**Location:** 2848 Nacogdoches Road  
**Legal:** Lot F, NCB 12104  
**Description:**  
**Zoning:** “R-6 AHOD” Residential Single-Family Airport Hazard Overlay District  
**Case Manager:** Margaret Pahl, AICP, Senior Planner

### Request

A request for a variance from the provisions described in UDC 35-370 to allow an accessory structure in the front yard, set back 66 feet from the property line.

### Executive Summary

The subject property is over an acre in size, 300 feet deep with over 200 feet frontage on Nacogdoches. The home is generally located in the middle of the lot. The applicant was issued a residential building permit for an accessory structure with plumbing less than 300 square feet in size. The shape of the lot, wider in the front and narrowing toward the rear, along with the large setback led permit writers and other reviewers to assume the structure was in the rear yard. The building was fully constructed and inspected before Code asked staff about the location. A variance is necessary to allow the structure to remain.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
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"R-6 AHOD" Single-Family Residential Airport Hazard Overlay District	Single-Family Dwelling
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### Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Church
South	"NP-8 AHOD" Neighborhood Preservation Airport Hazard Overlay District	Single-Family Dwelling
East	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
West	"RM-6 AHOD" Residential Mixed Airport Hazard Overlay District	Two-Family Dwelling

### Comprehensive Plan Consistency/Neighborhood Association

The property is located within the boundaries of the San Antonio International Airport Vicinity Plan and designated as Low-Density Residential in the future land use component of the plan. The subject property is also located within the boundaries of MacArthur Park Neighborhood Association and within 200 feet of the Forest Oak Neighborhood Association. As such, both 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 defined as the general health, safety, and welfare of the public. In this case, the public interest is not harmed by the location of an accessory structure 66 feet back from the front property line and therefore, the variance is not contrary to the public interest.**

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

**Literal enforcement of the ordinance would force the owner to relocate the building, an unnecessary hardship.**

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 rather than the strict letter of the law. In this case, the intent of the code is to preserve an open front yard streetscape. In this location however, Nacogdoches is classified as a secondary arterial street and the primary dwelling is located in the middle of a large lot. Therefore, the variance will observe the spirit of the code.**

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 in the “R-6 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 structure was built with materials matching the primary dwelling in a clearing among mature trees on the lot and does not alter the 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.*

**The plight of the owner is unique in that the City granted building permits and inspected the structure for compliance with building codes.**

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

Denial of the requested variance will result in the applicant having to relocate the structure.

#### **Staff Recommendation**

Staff recommends **APPROVAL of the requested variance in A-17-085** based on the following findings of fact:

1. The accessory structure is located 66 feet back from a secondary arterial street on a lot that is larger than one acre in size;
2. The owner was given a building permit from the City of San Antonio to build the structure in this location.