



# City of San Antonio

## Legislation Details (With Text)

**File #:** 18-5258  
**Type:** Zoning Case  
**In control:** Board of Adjustment  
**On agenda:** 9/17/2018  
**Title:** A-18-145: A request by James Pool for a 10' variance from the required maximum 40' front setback to allow a structure to be 50' away from the front property line, located at 1419 Austin Highway. Staff recommends Approval. (Council District 1)  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** 1. A-18-145 Attachments

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

**Case Number:** A-18-145  
**Applicant:** James Pool  
**Owner:** Jack Judson Estate, Joseph D. Judson-Executor  
**Council District:** 10  
**Location:** 1419 Austin Highway  
**Legal:** Lot 2, Block B, NCB 8695  
**Description:**  
**Zoning:** "C-2 CD MC-3 AHOD" General Commercial Austin Highway/Harry Wurzbach Metropolitan Corridor Overlay Airport Hazard Overlay District with Conditional Use for Auto/Light Truck Repair  
**Case Manager:** Debora Gonzalez, Senior Planner

### Request

A request for a 10' variance from the required maximum 40' front setback, as described in the Austin Highway /Harry Wurzbach Metropolitan Corridor Overlay District design requirements to allow a structure to be 50' away from the front property line.

### Executive Summary

The applicant is requesting the variance to allow a new structure to be 50' away from the front property line. The Austin Highway/Harry Wurzbach Metropolitan Corridor Overlay District allows for a maximum of 40' setback from the front property line. Also, there is a private restriction contained in a 1940 deed requiring no

building to be placed closer than 50' from the front property line. The owner intends to establish a business for auto repair were the subject property currently has multiple vacant buildings. Services will include oil changes, brake repairs, alignments, among other maintenance jobs. Nearby uses on the Corridor currently include a variety of service including restaurants, offices, retail stores, automotive centers and grocery stores, among other amenities.

### **Subject Property Zoning/Land Use**

<b>Existing Zoning</b>	<b>Existing Use</b>
“C-2 CD MC-3 AHOD” General Commercial Austin Highway/Harry Wurzbach Metropolitan Corridor Overlay Airport Hazard Overlay District with Conditional Use for Auto/Light Truck Repair	Vacant

### **Surrounding Zoning/Land Use**

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“C-2 MC-3 AHOD” General Commercial Austin Highway/Harry Wurzbach Metropolitan Corridor Overlay Airport Hazard Overlay District	Apartments
South	“C-3 MC-3 AHOD” General Commercial Austin Highway/Harry Wurzbach Metropolitan Corridor Overlay Airport Hazard Overlay District	Fast Food Restaurants
East	“C-3R MC-3 AHOD” General Commercial Restrictive Alcoholic Sales A Austin Highway /Harry Wurzbach Metropolitan Corridor Overlay Airport Hazard Overlay District	Self-Storage
West	“C-2 MC-3 AHOD” General Commercial Austin Highway/Harry Wurzbach Metropolitan Corridor Overlay Airport Hazard Overlay District	Self-Storage

### **Comprehensive Plan Consistency/Neighborhood Association**

The property is within the boundaries of the Northwest Inner Loop Neighborhood Plan and is currently designated Community Commercial in the future land use component of the plan. The subject property is not within a neighborhood association.

### **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 is not contrary to the public interest as the structure will be 50' from the front property line and will not injure the rights of the adjacent property owners. Some nearby business are closer or further than the 40' maximum front setback requirement, fast food restaurants across the street are approximately 70' from the front property line and the self-storage to the east of the subject property is approximately 20' from the front property line.

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

Literal enforcement of the ordinance would result in an unnecessary hardship by the 40' maximum setback from the Austin Highway/Harry Wurzbach Metropolitan Corridor Overlay District design requirements and the deed restriction from 1940 both place a conflict to the owner to develop the subject property as intended.

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. In this case, the intent of the front setback is to create a more defined streetscape by locating structures closer to the front property line.

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

The variance will not authorize the operation of a use other than those uses specifically authorized in the "C-2 CD MC-3 AHOD" General Commercial Austin Highway/Harry Wurzbach Metropolitan Corridor Overlay Airport Hazard Overlay District with Conditional Use for Auto/Light Truck Repair.

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.*

Although there are buildings closer than 50' from the property line, the request to increase the maximum front setback does not negatively impact neighboring properties as adjacent properties are self-storage facilities. It is unlikely that adjacent property would be harmed by the request.

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 on the property is that the subject property has two setback requirements that have to be met and without some relief the owner wouldn't be able to develop it as intended.

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

Denial of the variance request would result in the owner having to meet the maximum front setback requirement.

#### **Staff Recommendation**

Staff recommends **APPROVAL** of variance in **A-18-145**, based on the following findings of fact:

1. The request does not negatively impact the surrounding property owners, and;
2. The proposed project adheres to all other setbacks and bufferyard requirements.