



# City of San Antonio

## Legislation Details (With Text)

**File #:** 18-5600  
**Type:** Zoning Case  
**In control:** Board of Adjustment  
**On agenda:** 10/1/2018  
**Title:** A-18-146: A request by Jorge R. Sanchez Jr. for a 4'11" variance from the 5' side setback to allow an overhang to be 1" away from the side property line, located at 434 North Drive. Staff recommends Approval. (Council District 7)  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** 1. A-18-146 Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** A-18-146  
**Applicant:** Jorge R. Sanchez Jr.  
**Owner:** Jorge R. Sanchez Jr.  
**Council District:** 7  
**Location:** 434 North Drive  
**Legal:** Lot 20 and the West 27 feet of Lot 19, NCB 7070  
**Description:**  
**Zoning:** "R-6 H AHOD" Residential Single-Family Monticello Park  
Historic Airport Hazard Overlay District  
**Case Manager:** Dominic Silva, Planner

### Request

A request for a 4'11" variance from the 5' side setback, as described in Section 35.310.01, to allow an overhang to be 1" away from the side property line.

### Executive Summary

The subject property is located at 434 North Drive, approximately 408' east of Wilson Boulevard. The applicant constructed a 37" roof extension without permits on the side yard in order to cover the side yard walkway from inclement weather. Code Enforcement initiated a stop work order and ticket after construction was finalized on March 9<sup>th</sup>, 2018. The applicant applied for a permit on April 23<sup>rd</sup>, 2018 and received approval from both Historical and Storm Water on May 1<sup>st</sup>, 2018 with a final building inspection pending. The applicant was informed the permit would not be finalized until a variance was approved due to the setback violation.

The applicant's property is located within the Monticello Park Historical District which predominantly features

hipped and gabled roofs along with walkways that extend from the front driveway along the residence to the rear property. The new architectural features of the extended roof extension match the existing roof shingles, slope, and height as required by the issued Certificate of Appropriateness.

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

<b>Existing Zoning</b>	<b>Existing Use</b>
"R-6 H AHOD" Residential Single-Family Monticello Park Historic Airport Hazard Overlay District	Single-Family Dwelling

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

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	"R-6 H AHOD" Residential Single-Family Monticello Park Historic Airport Hazard Overlay District	Single-Family Dwelling
South	"RM-4 H AHOD" Residential Mixed Monticello Park Historic Airport Hazard Overlay District	Single-Family Dwelling
East	"R-6 H AHOD" Residential Single-Family Monticello Park Historic Airport Hazard Overlay District	Single-Family Dwelling
West	"R-6 H AHOD" Residential Single-Family Monticello Park Historic Airport Hazard Overlay District	Single-Family Dwelling

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

The property is within the Near Northwest Neighborhood Plan and designated as Medium Density Residential in the future land use component of the plan. The subject property is located within the boundaries of the Monticello Park 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 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 37" roof extension matches the existing pitch, height, and shingle composition of the previous overhang and follows all stipulations required by the approved Historic Design Review Commission Certificate of Appropriateness. Additionally, storm water runoff will be controlled via mature vegetation separating the applicant's lot to the adjacent that offer storm water minimization onto neighboring properties. Staff**

**finds the request is not contrary to the public interest.**

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

**Due to the finalized construction of the roof extension, a literal enforcement of the ordinance would result in unnecessary hardship by requiring removal of that portion of the roof overhang that extends into the side yard setback.**

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 setback limitation is to prevent fire spread, allow adequate space for maintenance, and encourage proper storm water drainage. All intents of this law will be observed if approved.**

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 requested variance will not permit a use not authorized within the “R-6 H AHOD” Residential Single-Family Monticello Park Historical 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.*

**This variance would not substantially injure or alter the use or character of adjacent conforming property or character of the district. The applicant’s property is located within the Monticello Park Historical District which predominantly features hipped and gabled roofs along with walkways that extend from the front driveway along the residence to the rear property. The new architectural features of the extended roof extension match the existing roof shingles, slope, and height.**

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 circumstances existing on the property are neither due to the general conditions of the district, nor due to the owner, and is not financial in nature. The plight of the owner originates from the layout of the residence within the property and lack of cover from inclement weather many properties currently enjoy.**

### **Alternatives to Applicant’s Request**

The alternative to the applicant’s request is to conform to rear setbacks set forth in the Unified Development Code.

### **Staff Recommendation**

Staff recommends **APPROVAL** of **A-18-146** because of the following reasons:

1. The requested variance is will not detract from the character of the district, and;
2. Adequate space will be utilized to prevent storm water runoff and all stipulations from Historic Design and Review Commission have been met, and;
3. The new roof extension matches the existing roof slope, height, and shingle composition.

