



# City of San Antonio

## Legislation Details (With Text)

**File #:** 18-6061  
**Type:** Zoning Case  
**In control:** Board of Adjustment  
**On agenda:** 11/5/2018  
**Title:** A-18-165: A request by Marietta J. Hill for 1) a 29.5' variance from the 30' rear setback to allow sheds to be 6" from the rear property line, and 2) a variance from the restriction that commercial accessory structures may not be located within the rear setback when abutting single-family zone or uses, located at 2702 North Loop 1604 East. Staff recommends Approval. (Council District 10)  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** 1. A-18-165 Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** A-18-165  
**Applicant:** Marietta J. Hill  
**Owner:** Marietta J. Hill  
**Council District:** 10  
**Location:** 2702 North Loop 1604 East  
**Legal:** Lot 1, Block 5, NCB 15675  
**Description:**  
**Zoning:** "C-2 MLOD-1 ERZD" Commercial Camp Bullis Military  
Lighting Overlay Edwards Recharge Zone District  
**Case Manager:** Dominic Silva, Planner

### Request

A request for 1) a 29.5' variance from the 30' rear setback, as described in Section 35-370, to allow sheds to be 6" from the rear property line, and 2) a variance from the restriction that commercial accessory structures may not be located within the rear setback when abutting single-family zone or uses.

### Executive Summary

The subject property is located at 2702 North Loop 1604 East, situated alongside Loop 1604 East 1,269' west of Redland Road. The applicant is seeking a variance to allow 3 sheds, built in 2012, to be placed 1' from the rear property line. Two of the smallest sheds have been moved to be 6' away from the rear property line; however, the largest of the sheds have slab on grade foundation in which the applicant does not wish to move. This shed is 6" away from the rear property line. Accessory structures must be located 30' from the rear property line, and cannot be located within the rear setback when abutting single-family zones, which this

property does.

The commercial property has various commercial buildings and uses. The applicant uses the rear of the property for a landscaping company and has one principal structure and three sheds. The landscape slopes considerably to the south towards the residential property in the rear; there is a retaining wall present at 2' in height situated along the rear property between the sheds and the principal structure. Lastly, there is more than a 100' distance between the sheds and any residential structures to the rear.

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

<b>Existing Zoning</b>	<b>Existing Use</b>
"C-2 MLOD-1 ERZD" Commercial Camp Bullis Military Lighting Overlay Edwards Recharge Zone District	Multi-Tenant Commercial

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

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	Right of Way	Loop 1604
South	"PUD R-6 MLOD-1 ERZD" Planned Unit Development Residential Single-Family Camp Bullis Military Lighting Overlay Edwards Recharge Zone District	Single-Family Dwelling
East	"R-6 MLOD-1 ERZD" Residential Single-Family Camp Bullis Military Lighting Overlay Edwards Recharge Zone District	Single-Family Dwelling
West	"R-6 MLOD-1 ERZD" Residential Single-Family Camp Bullis Military Lighting Overlay Edwards Recharge Zone District	Single-Family Dwelling

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

The property is located within the North Sector Plan and currently designated Suburban Tier in the future land use component of the plan. The subject property is within the Redland Estates 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 variance is not contrary to the public interest as the structure has been in place since 2012 with no issues thus far. Although all three shed roofs are sloped towards the adjacent property, adequate storm water runoff prevention measures have been observed by staff utilizing aluminum

gutters and downspouts directing runoff away from the adjacent property. There is also a retaining wall present between the sheds and the principal structure. Additionally, there is more than a 100' distance between any residential structures located to the rear of the subject property and the applicant's sheds.

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

Strict enforcement would result in the removal of the structure. As the sheds are built between large mature trees and an adjacent property fence line coupled with the substantial size of the sheds, moving them to the north and over a 2' retaining wall could potentially be unsafe and result in 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 of the requirement, rather than the strict letter of the law. The intent of setback limitations is to prevent fire spread, allow adequate space for maintenance, and encourage proper storm water drainage as well as, in this case, separate commercial and residential uses. A requirement of the permitting process is to fire rate the material closest to the adjacent property; the shed has remain unchanged since 2012; storm water drainage prevention controls are currently in place; lastly, the commercial property observes the essential character of the district. In this case, the proposed setback reduction will not injure the rights of adjacent property owners, which observes the intent of the code.

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 MLOD-1 ERZD" Commercial Camp Bullis Military Lighting Overlay Edwards Recharge Zone 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 variance for the sheds, which has been in place since 2012, is unlikely to injure the appropriate use of adjacent conforming properties. The shed is located behind a 6' privacy fence and bounded by large mature trees that obscure view from the right-of-way. Additionally, there is more than a 100' distance between the sheds and any residential structures to the rear.

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 include a substantial change in grade from north to south that result in the applicant having to build a large retaining wall. This makes it difficult to place storage sheds for the applicant's landscape business without undue hardship.

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

Denial of the variance request would result in the owner removing the structure or following setback

requirements within Section 35-370.

**Staff Recommendation**

Staff recommends **Approval** of the requested variances in **A-18-165**, based on the following findings of fact:

1. Proper storm water runoff controls are in place including a retaining wall and aluminum gutters on all sheds, and;
2. The request does not negatively impact the surrounding property owners nor will it significantly alter the appearance of the district, and;
3. There is more than a 100' distance between the sheds and any residential structures to the rear.