



# City of San Antonio

## Legislation Details (With Text)

**File #:** 19-1453  
**Type:** Zoning Case  
**In control:** Board of Adjustment  
**On agenda:** 1/14/2019  
**Title:** (Continued from December 17, 2018) BOA-18-900013: A request by Jesus Montiel for a 49.9% variance from the 50% front yard impervious cover limitation to allow 99.9% of the front yard to be covered in impervious cover, located at 3709 West Salinas Street. Staff recommends Denial. (Council District 5)  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** 1. 18-900013 Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** BOA-18-900013  
**Applicant:** Jesus Montiel  
**Owner:** Jesus Montiel  
**Council District:** 5  
**Location:** 3709 West Salinas Street  
**Legal:** Lot 10, Block 62, NCB 3660  
**Description:**  
**Zoning:** "R-4 MLOD-2 MLR-2 AHOD" Residential Single-Family  
Lackland Military Lighting Overlay Military Lighting  
Region 2 Airport Hazard Overlay District  
**Case Manager:** Debora Gonzalez, Senior Planner

### Request

A request for a 49.9% variance from the 50% front yard impervious cover limitation, as described in Section 35 -515 (d)(1), to allow 99.9% of the front yard to be covered in impervious cover.

### Executive Summary

The subject property is situated at 3709 West Salinas Street, approximately 120 feet west of NW 20<sup>th</sup> Street. The owner is requesting a variance to allow the front yard to be covered in cement to provide two onsite parking spaces for a duplex. During field visits, staff did not see similar concrete-covered front yards in the community.

The subject property has an alley that can be accessed through the back where parking can be provided for both

units.

### **Code Enforcement History**

On 6.19.2018, Code Enforcement initiated a case against this property for doing repairs and covering the front yard in concrete exceeding the 50% impervious cover limitation.

### **Permit History**

On 7.10.2018, a contractor applied for minor repairs permit and approach and sidewalk permit.

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

<b>Existing Zoning</b>	<b>Existing Use</b>
“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Duplex

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

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling
South	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling
East	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling
West	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling

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

The subject property is not within the boundaries of any neighborhood, community, or sector plan. The subject property is within the Prospect Hill Neighborhood Association. As such, they were notified and asked to comment.

### **Street Classification**

West Salinas is classified as a Local Street.

### **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 impervious coverage limitation preserves storm water management by reducing runoff and increasing storm water travel times. Further, the regulations are provided to prevent front yards from being covered by impervious surfaces, which can detract from the character of the community. Staff finds the request is contrary to the public interest. The subject property can relocate parking in the backyard accessible through an alley.

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

Staff is unable to establish a special condition that would allow a request for a variance from the impervious coverage limitation requirements.

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 impervious coverage limitation requirements is to prevent water flooding and to preserve the character of the community.

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 zoning 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 impervious coverage decreases the amount of storm water retained on-site. Therefore, the requested variance could injure adjacent property owners.

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 did not find any unique circumstances that warrant the granting of the requested variance. The requested impervious coverage limitation does not mitigate water issues, exacerbates drainage issues, and detracts from the character of the community.

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

The applicant would need to adhere to the impervious coverage limitation as described in Section 35-515 (d) (1).

**Staff Recommendation**

Staff recommends **DENIAL** of the variance in **BOA-18-900013**, based on the following findings of fact:

1. The requested impervious cover reduces the ability for storm water to enter the ground, which can harm adjacent property, and;
2. The subject property can relocate parking in the backyard accessible through an alley, and;
3. The impervious coverage will create inconsistency and alter the essential character of the neighborhood.