



# City of San Antonio

## Legislation Details (With Text)

**File #:** 19-2365  
**Type:** Zoning Case  
**In control:** Board of Adjustment  
**On agenda:** 3/4/2019  
**Title:** BOA 19-10300012: A request by Jaime Gonzalez for a 2' variance from the 5' side setback requirement to allow a structure to be 3' from the side property line, located at 129 South San Gabriel. Staff recommends Approval. (Council District 5)  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** 1. BOA-19-10300012 Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** BOA 19-10300012  
**Applicant:** Jaime Gonzalez  
**Owner:** Jara Irma Yuriria  
**Council District:** 5  
**Location:** 129 South San Gabriel  
**Legal:** Lot 28 and the South 12.5 feet of Lot 29, Block 8, NCB 8233  
**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:** Mercedes Rivas, Planner

### Request

A request a 2' variance from the 5' side setback requirement, as described in Section 35-371(a), to allow a structure to be 3' from the side property line.

### Executive Summary

The subject property is located at 129 South San Gabriel. The applicant is requesting a decrease of the side building setback line for an existing structure. The existing structure was demolished and replaced without a permit over the existing foundation. The previous structure was built more than 80 years ago when the side building setback lines were only three feet.

### Code Enforcement History

On October 23, 2018 the applicant received a code violation for building without a permit.

### **Permit History**

There is no permit history related to the structure on the property. The property owner is seeking a variance to allow for permit to be issued.

### **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	Single-Family Dwelling

### **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 property is not located within a Community Plan. The subject property is located within the Westside Neighborhood Association. As such, they were notified and asked to comment.

### **Street Classification**

South San Gabriel 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 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 not create water runoff on the adjacent property and will not injure the rights of the adjacent property owners.**

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

**An unnecessary hardship would result from the enforcement of the ordinance as strict enforcement would require the owner of the property to demolish and rebuild the structure in question.**

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

**Substantial justice will be done as the requested setbacks will still provide for a safe development pattern. The request provides fair and equal access to air and light, and provides for adequate fire separation.**

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 by 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 request will not detract from the character of the district. The structure was rebuilt using the previous building footprint, which existed for many years. The structure in question does not injure the adjacent property.**

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 new structure is built using the same building footprint as the previous structure.**

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

Denial of the variance request would result in the owner having to meet the required five foot side setback.

#### **Staff Recommendation**

Staff recommends **APPROVAL** of variances in **19-10300012**, based on the following findings of fact:

1. The requested setback provides room for adequate light, air, and maintenance, and;
2. The variance is unlikely to detract from the character of the district, and;
3. The variance is unlikely to have a negative impact on the adjacent properties.