



# City of San Antonio

## Legislation Details (With Text)

**File #:** 19-3007  
**Type:** Zoning Case  
**In control:** Board of Adjustment  
**On agenda:** 4/1/2019  
**Title:** BOA-19-10300028: A request for 1) a 3' variance from the 5' rear setback requirement to allow a detached accessory dwelling unit to be 2' away from the rear property line, and 2) a 2.8' variance from the 5' side setback requirement to allow a detached accessory dwelling unit to be 2.2' away from the side property line, located at 423 West Woodlawn Avenue. Staff recommends Approval. (Council District 1)  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** 1. BOA 19-10300028 Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** BOA-19-10300028  
**Applicant:** Charles Herrin  
**Owner:** Oi The Ltd.  
**Council District:** 1  
**Location:** 423 West Woodlawn Avenue  
**Legal Description:** The East 25 feet of Lot 14 & the West 46 feet of Lot 15,  
**Description:** Block 030, NCB 01840  
**Zoning:** "MF-33 NCD-2 AHOD" Multi-Family Alta Vista  
Neighborhood Conservation Airport Hazard Overlay  
District  
**Case Manager:** Mercedes Rivas, Planner

### Request

A request for 1) a 3' variance from the 5' rear setback requirement, as described in Section 35-310.01, to allow a detached accessory dwelling unit to be 2' away from the rear property line, and 2) a 2.8' variance from the 5' side setback requirement, as described in Section 35-310.01, to allow a detached accessory dwelling unit to be 2.2' away from the side property line.

### Executive Summary

The subject property is located at 423 West Woodlawn Avenue. The applicant is requesting a decrease of the rear and side building setback lines for an existing detached accessory dwelling unit in order to keep the

detached accessory dwelling unit where it is currently located. There are several structures encroaching on the rear and side setbacks within this community.

The subject property is within the Alta Vista Neighborhood Conservation District “NCD-2”. The “NCD-2” does not address side or rear setbacks, and as such, the UDC governs these standards.

### **Code Enforcement History**

On February 5, 2019 the applicant received a code violation for repairing the rear dwelling unit without a permit. The case is currently open.

### **Permit History**

No permit history related to this addition exists on the property. The property owner is seeking a variance to allow for a permit to be issued.

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

Existing Zoning	Existing Use
“MF-33 NCD-2 AHOD” Multi-Family Alta Vista Neighborhood Conservation Airport Hazard Overlay District	Multi-Family Dwelling

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

Orientation	Existing Zoning District(s)	Existing Use
North	“RM-4 NCD-2 AHOD” Multi-Family Alta Vista Neighborhood Conservation Airport Hazard Overlay District	Multi-Family Dwelling
South	“MF-33 NCD-2 AHOD” Multi-Family Alta Vista Neighborhood Conservation Airport Hazard Overlay District	Multi-Family Dwelling
East	“RM-4 NCD-2 AHOD” Multi-Family Alta Vista Neighborhood Conservation Airport Hazard Overlay District	Single-Family Dwelling
West	“MF-33 NCD-2 AHOD” Multi-Family Alta Vista Neighborhood Conservation Airport Hazard Overlay District	Multi-Family Dwelling

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

The property is within the Midtown Neighborhood Plan and designated as “Low Density Residential” in the future land use component of the plan. The subject property is located within the boundaries of the Alta Vista Neighborhood Association. As such, they were notified and asked to comment.

### **Street Classification**

West Woodlawn Avenue is classified as a Collector 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 the existing detached accessory dwelling unit and rebuild the structure within the required setbacks.**

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 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.*

**This variance would not substantially injure or alter the use or character of adjacent conforming property or character of the district. Specifically, the variance would not place the structure out of character within the community. Further, the unit in question is in the rear yard, not affecting the public right-of-way. 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 detached accessory dwelling unit in question has already been constructed and structures like these are common among other homes in the neighborhood.**

### **Alternatives to Applicant's Request**

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

### **Staff Recommendation**

Staff recommends **APPROVAL** of variances in **BOA-19-10300028** based on the following findings of fact:

1. The requested variances will not detract from the character of the district and is highly unlikely to be seen from the right-of-way, and;
2. Adequate space will be utilized to prevent storm water runoff, maintenance of property, and maintenance of the structure without trespass.