



# City of San Antonio

## Legislation Details (With Text)

**File #:** 19-5369

**Type:** Zoning Case

**In control:** Board of Adjustment

**On agenda:** 7/15/2019

**Title:** BOA-19-10300075: A request by Diego Mancilla for 3' variance from the 5' side setback requirement to allow a home to be 2' from the side property line, located at 167 Tesla Drive. Staff recommends Approval.(Council District 5) (Debora Gonzalez, Senior Planner (210) 207- 3074, debora.gonzalez@sanantonio.gov, Development Services Department)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. BOA-19-10300075 Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** BOA-19-10300075

**Applicant:** Diego Mancilla

**Owner:** Diego Mancilla

**Council District:** 5

**Location:** 167 Tesla Drive

**Legal:** Lot 12A, Block 5, NCB 8639

**Description:**

**Zoning:** "R-6 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 3' variance from the 5' side setback requirement, as described in Section 35.310.01, to allow a home to be 2' from the side property line.

### Executive Summary

The subject property is located at 167 Tesla Drive, approximately 810' north of Inez Avenue. The applicant is seeking to build an attached addition in the rear maintaining the 2' side setback to take care of his family. The house was originally built in 1958 on a 9,520 square foot lot. The existing house is only 26 feet wide and the rear corner of the house encroaches 2' into the side setback, the addition will be aligned with the existing structure. This area has mixed lot sizes some with narrow frontages and lengthy lots and some are compact lots.

### **Code Enforcement History**

No Code Enforcement history related to this project.

### **Permit History**

The property owner is seeking variance to allow for permit to be issued.

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

Existing Zoning	Existing Use
“R-6 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**

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 MLOD-2 MLR-2 AHOD” Residential- Single Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Vacant land
South	“R-6 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-6 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-6 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 within the West/Southwest Sector Plan and designated as “General Urban Tier” in the center tier component of the plan. The subject property is located within the boundaries of the Memorial Heights Neighborhood Association. As such, they were notified and asked to comment.

### **Street Classification**

Tesla Drive 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 proposed addition will be in harmony with the neighboring properties. Staff finds that 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.*

**The special condition in this case is that the current home encroaches 2' into the side setback and the applicant is struggling to complete an addition that meets the required setback to take care of his family. Staff finds that a literal enforcement of the ordinance would result in 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 requirements rather than the strict letter of the law. The intent of the setback is to provide sufficient separation between incompatible uses. Since the lot is 9,520 square feet and the applicant will meet all other requirements, staff finds that the spirit of the ordinance will be observed.**

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. The requested variance is not visible from the public right of way due to the encroachment being on the rear corner.**

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 existing structure encroaching 2' into the side setback.**

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

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

**Staff Recommendation**

Staff recommends **APPROVAL** of variance in **BOA-19-10300075**, based on the following findings of fact:

1. The requested variance will not detract from the character of the district, and;
2. The 2' side setback will provide room for adequate light, air, and maintenance.