



# City of San Antonio

## Legislation Details (With Text)

**File #:** 19-5654

**Type:** Zoning Case

**In control:** Board of Adjustment

**On agenda:** 8/5/2019

**Title:** BOA-19-10300084: A request by Joe Salinas for an appeal of the Director's decision to issue a building permit for a detached accessory with an accessory dwelling unit, located at 225 East Mistletoe. Staff recommends Denial. (Council District 7) (Crystal Gonzales, Development Services Engineer; Debora Gonzalez, Senior Planner (210) 207- 3074, debora.gonzalez@sanantonio.gov, Development Services Department)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. BOA-19-10300084 Attachments, 2. BOA Appeal Color Document

Date	Ver.	Action By	Action	Result
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**Case Number:** BOA-19-10300084

**Applicant:** Joe Salinas

**Owner:** Brenda and Meade Vance

**Council District:** 1

**Location:** 225 E. Mistletoe Ave

**Legal** The South 80 feet of the East 25 feet of Lot 13 & the South

**Description:** 80 feet of Lot 14, Block 1, NCB 853

**Zoning:** "R6 AHOD" Residential Single-Family Airport Hazard  
Overlay District

**Case Manager:** Crystal Gonzales, Development Services Engineer; Debora  
Gonzalez, Senior Planner

### Request

A request for an appeal of the Director's decision related to issuance of a building permit for an accessory structure with accessory detached dwelling unit; UDC Section 35-310.01(b). Generally, UDC Section 35-A101: Definitions and Rules of Interpretation, and UDC Section 35-371(b)(6): Accessory Detached Dwelling.

### Applicable Code References

(a) UDC 35-310.01. Generally. The design regulations for each district are included in Table 310-1 below.

Table 310-1  
Lot and Building Dimensions Table

(A)	(B)	(C)	(D)	(E)	(F)	(G)	(H)	(I)	(J)	(K)	(L)	(M)	(N)
	LOT DIMENSIONS						BUILDING ON LOT				BUILDING		
Zoning District	Lot Size (min)	Lot Size (max)	Density (max) (units/acre)	Street Frontage (min)	Width (min)	Width (max)	Front Setback (min) *** *	Front Setback (max)	Side Setback (min)	Rear Setback (min)	Height (max) (feet/#of stories)	Size - Individual Building Size (max)	Size - Aggregate Building Size (max)
RP	10 acres		0.1	—	—	—	15	—	5	—	35/2-½	—	—
RE	43,560		1	100	120	—	15	—	5	30	35/2-½	—	—
R-20	20,000		2	65	90	—	10	—	5	30	35/2-½	—	—
R-6 <sup>1</sup>	6,000		7	30	50	150	10	—	5	20	35/2-½	—	—

**(b) UDC 35-A101 Definitions and Rules of Interpretation.**

(a) **Half story.** An uppermost story usually lighted by dormer windows, in which a sloping roof replaces the upper part of the front wall, and habitable areas on the uppermost story do not exceed a floor area derived by multiplying the floor area of the ground floor by fifty (50) percent.

(b) **Height, building.** The vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point of ceiling of the top story in the case of a flat roof, to the deckline of a mansard roof; and to the average height between the plate and ridge of a gable, hip or gambrel roof.

(c) UDC 35-371(b)(6) Accessory Detached Dwelling Units. In order to maintain the architectural design, style, appearance and character of the main building as a single-family residence, the ADDU shall have a pitch, siding and window proportions identical to that of the principal residence.

**Background**

Development Services Department received plans for the development of an accessory detached dwelling unit in February of 2019. On May 31, 2019 a building permit was issued for construction.

**Appeal History**

On June 28, 2019 Joe Salinas, the owner at 111 Home Ave, filed an appeal of three sections: Section 35-310.01, Section 35-A101 and Section 35-371.

Related to Section 35-310.01, the applicant ascertains that the correct decision would have been to change the design of the half story to fulfill the height and square footage requirements and architectural features. Related to Section 35-A101, the applicant states that the correct decision would have been to measure the height of the structure where the eave meets the exterior wall of the upper most story. Related to Section 35-371(b)(6), the applicant states that the correct decision would have been to require the architectural features to be identical to the 1905 Victorian style home with original details.

**Staff Analysis on Section 35-310.01 Generally:**

The applicant references this section of code to identify the restrictions on the height, in maximum feet, and the maximum number of stories for a property zoned R-6.

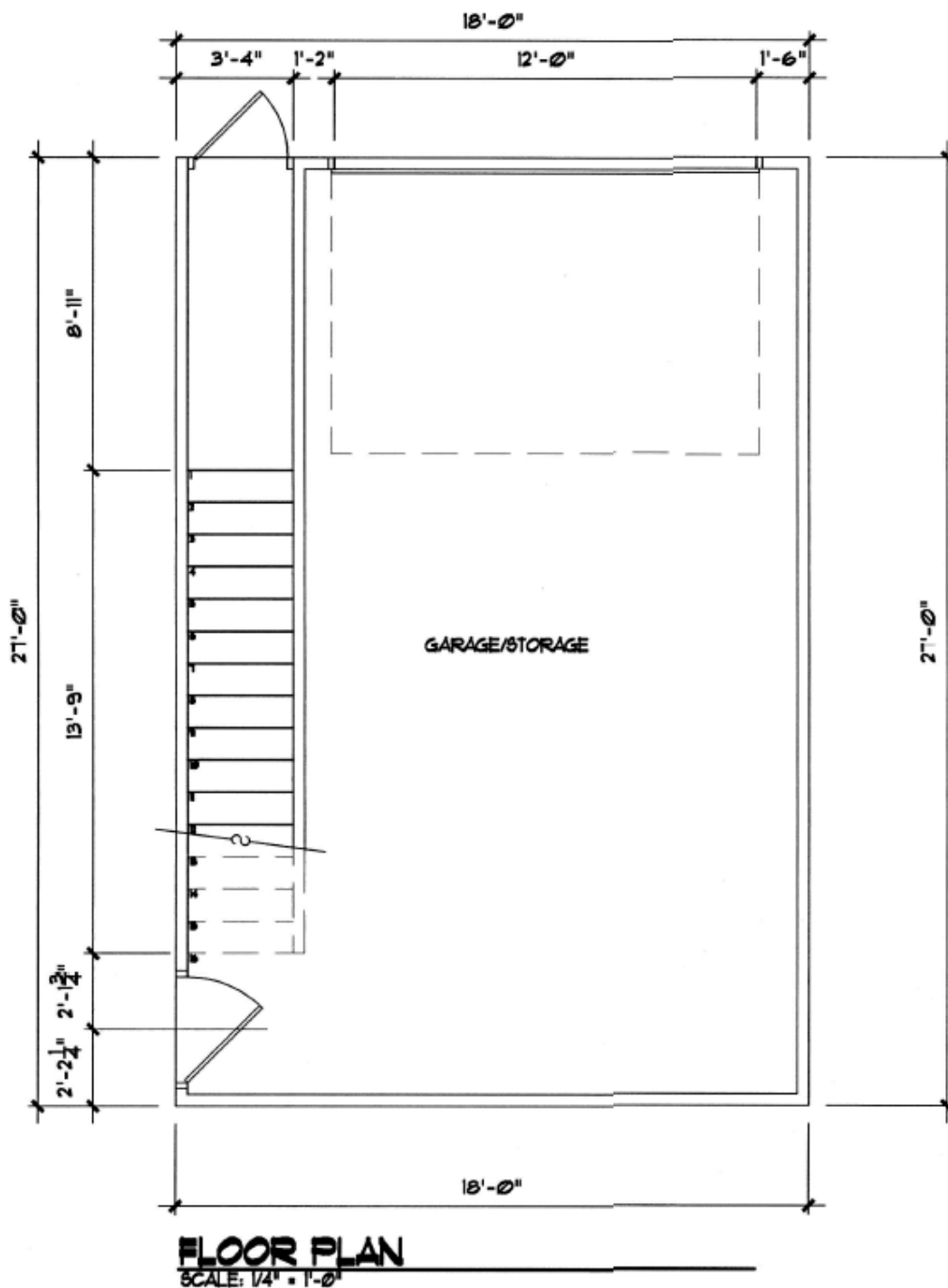
The maximum height of a structure for a property zoned R-6 is 35 feet and 2 ½ stories per Table 310-1.

**Staff Analysis on Section 35-A101 Definitions and Rules of Interpretation:**

The applicant references this section of code to identify the definitions of half story and height.

Per the definition of half story, the habitable areas on the uppermost story shall not exceed a floor area derived by multiplying the floor area of the ground floor by fifty (50) percent.

First, the area of the ground floor must be determined from the building plans.



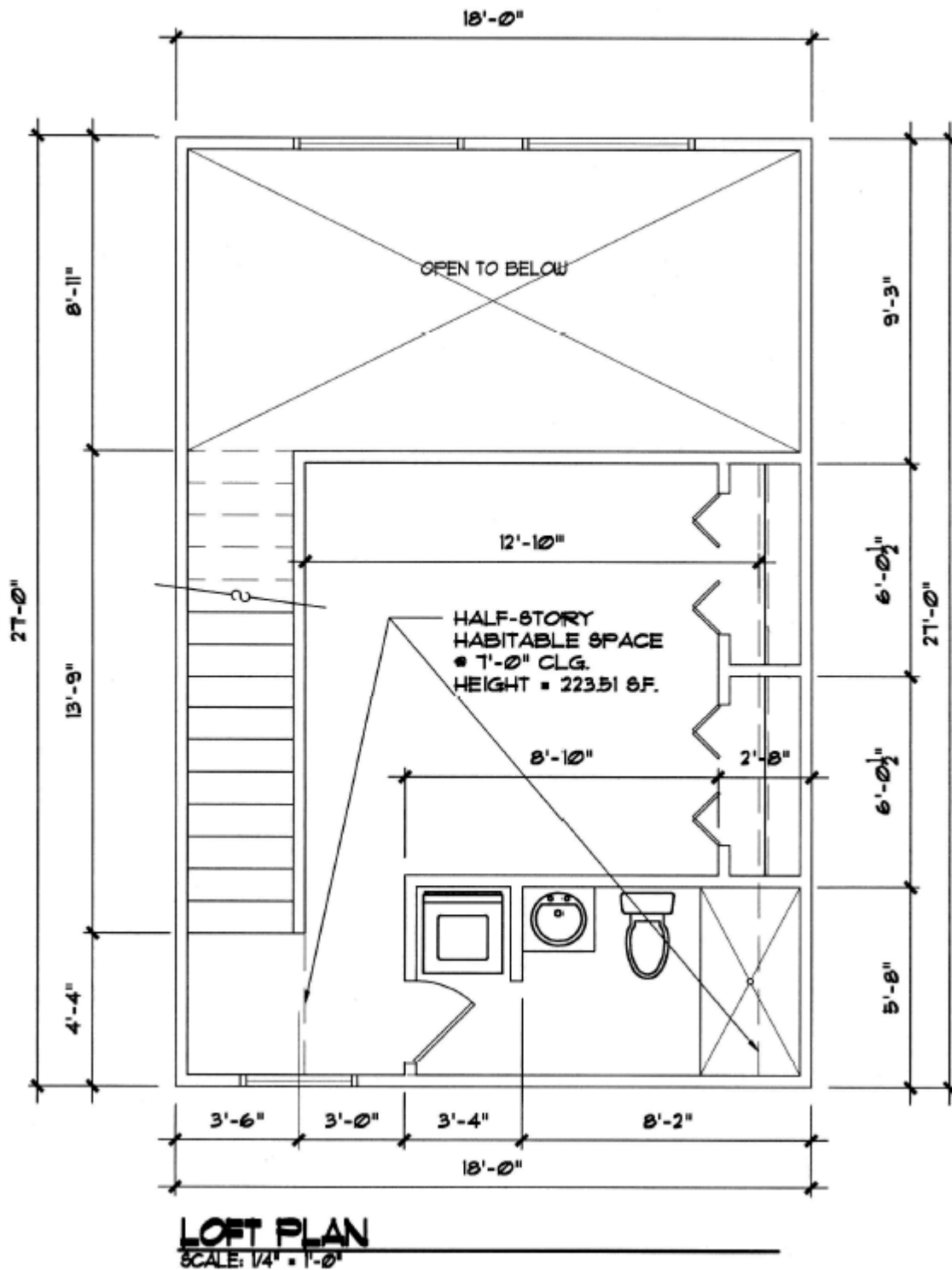
The area of the ground floor is calculated by multiplying 18 feet by 27 feet to obtain a floor area of 486 square feet. Fifty percent of the ground floor area is 243 square feet. The habitable area on the uppermost story cannot exceed a floor area of 243 sf.

The next item to determine is the habitable area of the uppermost story. In referencing the International Residential Code (IRC), the definition of habitable space is defined as:

***Habitable space.** “A space in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces”.*

The IRC is used to regulate construction of one and two family residential structures and was adopted by the City of San Antonio and implemented October 1, 2018.

The codes clearly recognize that habitable area and floor area are not one in the same. To calculate the habitable area of the uppermost floor, the area of the bathroom, toilet room, closet, hall and storage/utility spaces are excluded from the floor area.



The habitable area of the uppermost floor calculates to be  $486\text{sf} - 166.5\text{sf} - 48.13\text{sf} - 32.2\text{sf} - 65.17\text{sf} = 173.98\text{sf}$  which is well under the allowable floor area of 243sf.

The UDC definition of height, again, states that the height shall be measured from the average elevation of the finished lot grade at the front of the building to the average height between the plate and ridge of a gable roof, in this case. The average height between the plate and ridge of the gable roof is determined by taking the total

height and dividing by two. The measurement of 5ft between the plate and the top of the ridge was taken from the plans.  $5' / 2 = 2'6''$ .

Total Height =  $10' + 10' + 6'3'' + 2'6'' = 28'9''$  which is well under the maximum allowable 35' height. Even if the total height was measured to the top of the ridge, the height would be  $31'3''$  and would still not exceed the maximum allowable height of 35ft.



### Staff Analysis on Section 35-371: Accessory Detached Dwelling Units:

The ADDU has horizontal lap siding similar to the main building and a shingled, gable roof that generally

matches the roof pitch of the main building and surrounding buildings. The windows of the ADDU are similar in size and appearance as the windows of the main building. The ADDU maintains the architectural design and character of the main building.

### **Board of Adjustment**

The Board of Adjustment is asked to determine the intent of Section 35-310.01 *Generally* and Section 35-A101: *Definitions and Rules of Interpretation* and Section 35-371: *Accessory Detached Dwelling Units*.

In addition, in this case, the *Board of Adjustment* has the authority to review and consider the appeal before it, investigate facts, weigh evidence, and draw conclusions. The *Board* may reverse or affirm, in whole or in part, the administrative decisions brought forward by the appellant and discussed in this report.

Therefore, the *Board* is charged with reviewing the subject decisions described below pursuant to *Section 35-481* of the *UDC*:

Staff utilized the intent of Section 35-310.01 and Section 35-A101 and Section 35-371 to review and approve the construction documents. Further, the context of the project, as well as the code, establish that the height does not exceed 35 feet or two and a half stories and the ADDU maintains the appearance and style of the main house.

The definition of height has been in place since the adoption of the 1965 code and staff has consistently applied the definition for decades. Should the Board reverse the decision regarding 35-310.01, 35-A101 and 35-371, the impact of that decision would immediately alter the way structures are measured and will make homes all over the city non-conforming.

### **Conclusion:**

Staff concludes that the decision to issue the permit was correct, based on the following findings of fact:

- 1) Section 35-310.01 and 35-A101 expressly recognizes that the height was measured per the clearly defined method and the allowable area of the half story was calculated per code.
- 2) Section 35-371(b)(6) states that the ADDU maintains the same architectural design, style, appearance and character of the main building. The ADDU meets the intent of this section.