



# City of San Antonio

## Legislation Details (With Text)

**File #:** 19-6100  
**Type:** Zoning Case  
**In control:** Board of Adjustment  
**On agenda:** 8/19/2019  
**Title:** BOA-19-10300093: A request by Marina Villagran for a 2' variance from the 3' side yard setback requirement to allow a detached shed to be 1' from the side yard property line, located at 5410 King Richard. Staff recommends Approval (Council District 7) (Debora Gonzalez, Senior Planner (210) 207- 3074, debora.gonzalez@sanantonio.gov, Development Services Department)  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** 1. BOA-19-10300093 Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** BOA-19-10300093  
**Applicant:** Marina Villagran  
**Owner:** Marina Villagran  
**Council District:** 7  
**Location:** 5410 King Richard  
**Legal** Lot 9, Block 11, NCB 14611  
**Description:**  
**Zoning:** "R-6 AHOD" Residential-Single Family Airport Hazard Overlay District  
**Case Manager:** Debora Gonzalez, Senior Planner

### Request

A request for a 2' variance from the 3' side setback, as described in Section 35-370, to allow a shed to be 1' from the side property line.

### Executive Summary

The subject property is located at 5410 King Richard, approximately 170 feet west of Madeline Drive. The applicant is seeking a variance to allow a shed, to remain 1' from the side property line. Accessory structures must be located five feet from the side property line unless they have no eave overhang. In the absence of an eave overhang, the structure would then be permitted to be three feet from the side or rear property lines. The shed is built on a concrete base in between large mature trees.

### Code Enforcement History

On July 3, 2019 Code Enforcement issued a citation due to shed location.

### **Permit History**

A permit from Development Services is not required for a shed less than 300 square feet.

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

Existing Zoning	Existing Use
"R-6 AHOD" Residential-Single Family Airport Hazard Overlay District	Single-Family Dwelling

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

Orientation	Existing Zoning District(s)	Existing Use
North	"R-6 AHOD" Residential-Single Family Airport Hazard Overlay District	Single-Family Dwelling
South	"R-6 AHOD" Residential-Single Family Airport Hazard Overlay District	Single-Family Dwelling
East	"R-6 AHOD" Residential-Single Family Airport Hazard Overlay District	Single-Family Dwelling
West	"R-6 AHOD" Residential-Single Family Airport Hazard Overlay District	Single-Family Dwelling

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

The property is not located within community plan. The subject property is also not within a registered neighborhood association.

### **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 shed does not negatively impact any surrounding properties or the general public. The shed is surrounded by large matures and is not noticeable to the passersby until entering into the applicant's property.**

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

**Strict enforcement would result in the removal of the structure. As the shed is built between large mature trees and an adjacent property fence line coupled with the shed, moving it west of the adjacent property**

**line could potentially involve removing a large mature tree.**

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 requirement rather than the strict letter of the law. The shed is not overwhelming in size compared to the principal structure and is hidden from right-of-way view due to the large mature tree and a 6 foot fence.**

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 variance to the shed is unlikely to injure the appropriate use of adjacent conforming properties. The shed is located behind a 6' privacy fence and bounded by large mature trees that obscure view from the right-of-way.**

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 the shed located behind a 6' privacy fence and bounded by large mature trees that obscure view from the right-of-way.**

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

Denial of the variance request would result in the owner removing the structure or following setback requirements within Section 35-370.

### **Staff Recommendation**

Staff recommends **APPROVAL** of variance in **BOA-19-10300093**, based on the following findings of fact:

1. The request does not negatively impact the surrounding property owners nor will it significantly alter the appearance of the district.