



# City of San Antonio

## Legislation Details (With Text)

**File #:** 19-6820

**Type:** Zoning Case

**In control:** Board of Adjustment

**On agenda:** 9/16/2019

**Title:** BOA-19-10300096: A request by Frederic D Wile for a 1) a 4' 6" variance from the 5' side and rear setback requirement to allow a detached storage shed to be 6" from the side and rear yard property line and 2) a 2' 6" variance from the 3' requirement for projecting architectural features to allow overhang to be 6" from the side and rear property lines, located at 306 Callaghan Avenue. Staff recommends Approval. (Council District 1) (Dominic Silva, Senior Planner (210) 207- 0120, dominic.silva@sanantonio.gov, Development Services Department)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** BOA-19-10300096

**Applicant:** Frederic D Wile

**Owner:** Frederic D Wile

**Council District:** 1

**Location:** 306 Callaghan Avenue

**Legal** The North 80.04 feet Lot 2, Block 3, NCB 721

**Description:**

**Zoning:** "RM-4 H AHOD" Residential Mixed Lavaca Historic Airport  
Hazard Overlay District

**Case Manager:** Dominic Silva, Senior Planner

### Request

A request for 1) a 4' 6" variance from the 5' side and rear setback, as described in Section 35-516, to allow a detached storage shed to be 6" from the side and rear yard property line, and 2) a 2' 6" variance from the 3' requirement for projecting architectural features, also described in Section 35-516, to allow an overhang to be 6" from the side and rear property lines.

### Executive Summary

The subject property is located at 306 Callaghan Avenue within the Lavaca Historic Neighborhood. The primary structure is built circa 1910 following the Folk Victorian style; the primary structure measures less than 1,200 square feet, as does all other similar primary structures within the area.

The applicant requests a variance for a shed that was partially constructed prior to stopping work. The shed measures 140 square feet and thus does not require a permit. The owner has gone before HDRC and has obtained a Certificate of Appropriateness for the shed.

Staff notes the accessory structures within the historic district generally follow historic setbacks closer to property lines and narrow rear yards. The entire block, including the properties adjacent to the subject property, feature accessory structures closer to the property lines. The accessory structure is not noticeable from the public right-of-way.

### **Code Enforcement History**

No Code Enforcement history exists on the property.

### **Permit History**

Permits are not needed for a shed under 300 square feet.

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

<b>Existing Zoning</b>	<b>Existing Use</b>
“RM-4 H AHOD” Residential Lavaca Historic 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	“RM-4 H AHOD” Residential Lavaca Historic Airport Hazard Overlay District	Single-Family Dwelling
South	“RM-4 H AHOD” Residential Lavaca Historic Airport Hazard Overlay District	Single-Family Dwelling
East	“RM-4 H AHOD” Residential Lavaca Historic Airport Hazard Overlay District	Single-Family Dwelling
West	“RM-4 H AHOD” Residential Lavaca Historic Airport Hazard Overlay District	Single-Family Dwelling

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

The subject property is within the boundaries of the Downtown Neighborhood Plan and is currently designated Low Density Residential in the future land use component of the plan. The subject property is located within the Lavaca Neighborhood Association. As such they were notified and asked to comment.

### **Street Classification**

Callaghan Avenue 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 proposed shed is not contrary to public interest as it does not negatively impact any surrounding properties or the general public. The shed is minimally visible from the public right-of-way and will not be noticeable to the passersby. A certificate of appropriateness has been obtained to preserve the character of the house and neighborhood.**

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

**Literal enforcement of ordinance would result in the applicant removing the shed entirely. Due to the narrow rear yard, there is no other place in the rear yard that could accommodate a shed.**

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 proposed shed is not overwhelming in size (measuring at 140 square feet) compared to the principal structure and will allow the owner adequate relief in storage space due to the limited space of a 1,200 square foot home.**

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 permitted within the property's current base 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 property is located in a historic district characterized by narrow rear yards, small principal structures, and historic setbacks, thus a proposed shed at its current placement will not injure the appropriate use of adjacent conforming properties or alter the character of the district. Further, the applicant has obtained a certificate of appropriateness for approval to construct the shed that matches the style and character of the neighborhood.**

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 variance being sought is due to the size constraints of the rear property in regard to a 5' side and rear setback from the property line. If approved, adequate space will be reserved for setbacks, maintenance of the structure without trespass, and storm water controls. Further, the proposed shed will be out of sight from public right-of-way.**

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

The alternative to the applicant's request would be to adhere to the accessory structure setback regulations in section 35-370.

**Staff Recommendation**

Staff recommends **APPROVAL** of the variance requested in **BOA-19-10300096** based on the following findings of fact:

1. The proposed shed will provide adequate space for maintenance of the structure without trespass, storm water controls, and fire rated materials as required by code.
2. The applicant has obtained a certificate of determination for the shed that requires the applicant to maintain the essential character of the Lavaca Historic District.
3. The current placement of the shed follows historic setbacks enjoyed by the majority of owners within the Lavaca Historic District.