



# City of San Antonio

## Legislation Details (With Text)

**File #:** 19-6822  
**Type:** Zoning Case  
**In control:** Board of Adjustment  
**On agenda:** 9/16/2019  
**Title:** BOA-19-10300098: A request by Dustin Brisco for a 4'9" variance from the 5' side yard setback requirement to allow an attached patio and cover to be 3" from the side yard property line, located at 618 Dawson Street. Staff recommends Approval. (Council District 2) (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-19-10300098  
**Applicant:** Dustin Brisco  
**Owner:** Valerie Fuller of Fulco Properties, LLC.  
**Council District:** 2  
**Location:** 618 Dawson Street  
**Legal:** Lot 5, Block 17, NCB 569  
**Description:**  
**Zoning:** "RM-4 H AHOD" Residential Mixed Dignowity Historic  
Airport Hazard Overlay District  
**Case Manager:** Dominic Silva, Senior Planner

### Request

A request for a 4'9" variance from the 5' side setback, as described in Section 35-516, to allow an attached patio and cover to be 3" from the side yard property line.

### Executive Summary

The subject property is located at 618 Dawson Street, 212' west of North Hackberry Street. The principal structure is angled noticeably crooked within the property, as the survey shows. Staff notes that most properties on Dawson Street are also angled noticeably crooked within their properties.

The principal structure was built circa 1920 with a rear entry door raised above ground level, thus the patio has been rebuilt to match the existing. The applicant has obtained an administrative Certificate of Appropriateness from the Office of Historic Preservation for the construction of the patio cover that matches the existing roof

line of the principal structure. As the patio is in the rear, it will be hidden from the public right-of-way.

### **Code Enforcement History**

No Code Enforcement history exists on the property.

### **Permit History**

No permit history related to this proposed project exists on the property.

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

<b>Existing Zoning</b>	<b>Existing Use</b>
"R-6 AHOD" Residential Single-Family 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	"R-6 H AHOD" Residential Single-Family Dignowity Historic Airport Hazard Overlay District	Single-Family Dwelling
South	"I-1 H AHOD" General Industrial Dignowity Historic Airport Hazard Overlay District	Tool Sales
East	"RM-4 H AHOD" Residential Mixed Dignowity Historic Airport Hazard Overlay District	Single-Family Dwelling
West	"RM-4 H AHOD" Residential Mixed Dignowity Historic Airport Hazard Overlay District	Single-Family Dwelling

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

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

### **Street Classification**

Dawson Street 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 patio cover is not contrary to public interest as it does not negatively impact any surrounding properties or the general public. The patio cover will not be noticeable to the passersby as it is located in the rear of the property.

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 not only the portion of the patio cover trespassing into the side setback, but also the deck that serves as the landing pad for the rear entry.**

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 patio cover is not overwhelming in size compared to the principal structure and serves as a landing pad for the rear entry which is located above ground level.**

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 reduced side setbacks and narrow lots. The applicant has obtained an administrative Certificate of Appropriateness and has followed the same characteristics of the principal structure to include roof line and material. Further, the patio cover is located in the rear of the property and will not alter the essential character of the district.**

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 property in regard to a 5' side setback from the property line. The principal structure is angled noticeably crooked within the property, as the survey shows. Staff notes that most properties on Dawson Street are also angled noticeably crooked within their properties.**

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

The alternative to the applicant's request would be to adhere to the accessory structure setback regulations in section 35-516.

### **Staff Recommendation**

Staff recommends **APPROVAL** of the variance requested in **BOA-19-10300098** based on the following findings of fact:

1. The proposed patio cover will be out of sight from public right-of-way in the rear of the property;
2. The patio cover follows the principal structure which is angled noticeably crooked, as does most properties on Dawson Street, and;

3. The patio cover matches the material and general characteristic of the Dignowity Hill Historic District and the applicant has obtained a Certificate of Appropriateness for the patio cover.