



# City of San Antonio

## Legislation Details (With Text)

**File #:** 20-5776

**Type:** Staff Briefing - Without Ordinance

**In control:** Board of Adjustment

**On agenda:** 10/5/2020

**Title:** BOA-20-10300085: A request by John Bustamante for a 2' variance from the 5' minimum side setback requirement to allow an accessory structure to be 3' from the side property line, located at 106 Castillo Avenue. Staff recommends Approval. (Council District 5) (Kayla Leal, Senior Planner (210) 207-0197, [kayla.leal@sanantonio.gov](mailto:kayla.leal@sanantonio.gov), Development Services Department)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Attachment

Date	Ver.	Action By	Action	Result
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Case Number:	BOA-20-10300085
Applicant:	John Bustamante
Owner:	John Bustamante
Council District:	5
Location:	106 Castillo Avenue
Legal Description:	East 16.23' of Lot 46, Lot 47, Lot 48, Block 9, NCB 3128
Zoning:	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager:	Kayla Leal, Senior Planner

### Request

A request for a 2' variance from the 5' minimum side setback requirement, as described in Section 35-310.01, to allow an accessory structure to be 3' from the side property line.

### Executive Summary

The subject property is located near the corner of Castillo Avenue and Grove Avenue. There is currently a single-family dwelling on the subject property with an accessory structure in the rear. The accessory structure is in need of repair, and when it was constructed was built directly up to the southern property line, in close proximity to the eaves of the structure on the abutting lot to the south. The applicant is requesting the variance in order to redevelop the accessory structure to be three (3) feet away from the property line, allowing there to be more space in between it and the structure on the southern abutting lot.

### **Code Enforcement History**

There is no relevant code enforcement history on file for the property.

### **Permit History**

There are no relevant permits pulled for the property.

### **Zoning History**

The subject property is located in the original 1938 San Antonio City Limits and was zoned “B” Residence District. The zoning converted from “B” to “R-4” Residential Single-Family District upon adoption of the 2001 Unified Development Code (Ordinance 93881, dated May 3, 2001).

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

Existing Zoning	Existing Use
“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single family residential

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

Orientation	Existing Zoning District(s)	Existing Use
North	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single family residential
South	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single family residential
East	“I-1 AHOD” General Industrial Airport Hazard Overlay District	Vacant Building
West	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single family residential

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

The subject property is in the Downtown Area Regional Center Plan and is designated “Medium Density Residential” in the future land use component of the plan. The subject property is in the boundaries of the Roosevelt Park Neighborhood Association and as such, they were notified of the case.

### **Street Classification**

Castillo 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 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 applicant is proposing to renovate an accessory structure and move it further from a structure on an abutting lot.**

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

**Staff finds that any special conditions that, if enforced, would result in an unnecessary hardship. The subject property has an existing dilapidated accessory structure in the rear which and is built up to the southern property line. When renovating the structure, the five (5) foot setback would result in a smaller footprint of the accessory structure.**

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 defined as the intent of the code, rather than the exact letter of the law. The intent of the minimum lot dimensions is to create uniformity and protect the public health, safety, and welfare. In this case, the applicant will be moving the structure farther away from the eaves of the abutting structure to the south, creating more separation and reducing fire risk from the abutting property.**

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.*

**No uses other than those allowed within the district will be allowed with this variance.**

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 request to reduce the side setback does not pose a risk of substantially injuring the use of adjacent properties and does not seem likely to 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.*

**Staff finds that the location of the accessory structure and proposed plans for the lot shall warrant the granting of this request. The applicant was informed of the limitations incurred by the ordinance and submitted the request for a variance prior to construction.**

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

The alternative to the applicant's request is to conform to the Lot and Setback Dimensions of the UDC Section 35-310.01.

**Staff Recommendation**

Staff recommends **Approval** of the zoning variance in **BOA-20-10300085** based on the following findings of fact:

1. The existing accessory structure is 2' from the eaves of a structure on the abutting lot to the south; and
2. The renovated accessory structure will be 3' away from the southern property line.