



# City of San Antonio

## Legislation Details (With Text)

**File #:** 20-6374

**Type:** Staff Briefing - Without Ordinance

**In control:** Board of Adjustment

**On agenda:** 11/2/2020

**Title:** BOA-20-10300094: A request by Amanda Christina Graham for a 8' 9" variance to the minimum 20' rear setback to allow an attached pergola and overhang to be 11' 3" from the rear property line, located at 10523 Millspring. Staff recommends Approval. (Council District 8) (Kayla Leal, Senior Planner (210) 207-0197, kayla.leal@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-20-10300094
Applicant:	Amanda Christina Graham
Owner:	Amanda Christina Graham & Michael Christopher
Council District:	8
Location:	10523 Millspring
Legal Description:	Lot 16, Block 12, NCB 14124
Zoning:	"R-6" Residential Single-Family District
Case Manager:	Kayla Leal, Senior Planner

### Request

A request for an 8' 9" variance to the minimum 20' rear setback, as described in Section 35-310.01, to allow an attached pergola and overhang to be 11' 3" from the rear property line.

### Executive Summary

The subject property is located at 10523 Millspring and there is currently a single-family residence on the property. The applicant has begun constructing an attached pergola in the rear of the property and is proposing it also be used to house solar panels. The pergola is attached to the residence and extends 19.8' past the primary structure, causing the structure to encroach 8' 9" into the rear setback. The minimum rear setback is twenty feet, and the applicant is proposing the pergola to be constructed 11' 3" away from the property line, which is measured from the edge of the overhang. Staff measured the distance from the post of the pergola to the fence, which was 17' 8". The overhang itself is about 6' 5", and during the residential plan review process, any

submitted plans are required to be signed and sealed by an engineer.

### **Code Enforcement History**

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

### **Permit History**

The applicant applied for an electrical permit to obtain the solar panels in 2019.

### **Zoning History**

The subject property was annexed into San Antonio City Limits on May 27, 1971, established by Ordinance 39443 and was zoned Temporary “R-1” Temporary Residence District. The zoning converted from Temporary “R-1” to the current “R-6” 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-6” Residential Single-Family District	Office Building

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

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6” Residential Single-Family District	Single family residential
South	“R-6” Residential Single-Family District	Single family residential
East	“R-6” Residential Single-Family District	Single family residential
West	“R-6” Residential Single-Family District	Single family residential

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

The subject property is in the North Sector Plan and is designated “Suburban Tier” in the future land use component of the plan. The subject property is in the boundaries of the Vance Jackson Neighborhood Association and as such, they were notified of the case.

### **Street Classification**

Millspring 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 complete construction of an attached pergola, and there is still 11' 3" of space between it and the rear property line.

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. With the limited amount of space in the rear of the property, moving the structure farther away from the property line will result in less space provided for the proposed solar paneling.

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 accessory structure setbacks is to provide spacing between neighboring structures. The applicant will still maintain some space between the pergola and the structure on the adjacent 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 rear 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 being as there will still be more than 10' of separation. The structure itself will also need to be signed off by an engineer to ensure structural stability.

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 attached 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.

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

The alternative to the applicant's request is to conform to the Accessory Structures of the UDC Section 35-310.01 by detaching the pergola from the residence.

### **Staff Recommendation**

Staff recommends **Approval** of the zoning variance in **BOA-20-10300094** based on the following findings of

fact:

1. The proposed pergola and overhang will be constructed 11' 3" away from the property line;  
and
2. The proposed accessory structure will remain more than 20' away from the adjacent structure.