



# City of San Antonio

## Legislation Details (With Text)

**File #:** 21-5378

**Type:** Staff Briefing - Without Ordinance

**In control:** Board of Adjustment

**On agenda:** 9/20/2021

**Title:** BOA-21-10300107: A request by Christopher Morton for a 4' 11" variance from the 5' minimum rear setback to allow a detached accessory structure to be 1" from the rear property line, located at 206 East Lullwood Avenue. Staff recommends Approval. (Council District 1) (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-21-10300107
Applicant:	Christopher Morton
Owner:	Christopher Morton
Council District:	1
Location:	206 East Lullwood Avenue
Legal Description:	Lot 3 & 4, Block 3, NCB 6727
Zoning:	"RM-4 H AHOD" Residential Mixed Monte Vista Historic Airport Hazard Overlay District
Case Manager:	Kayla Leal, Senior Planner

### Request

A request for a 4' 11" variance from the 5' minimum rear setback, as described in Section 35-370, to allow a detached accessory structure to be 1" from the rear property line.

### Executive Summary

The subject property is located near the corner of East Lullwood Avenue and McCullough Avenue. There is currently a residential structure constructed on the property and accessory structure in the rear yard. The applicant is proposing to renovate the structure in the rear and convert it into a detached accessory dwelling unit. It was previously considered a non-conforming structure, as it does not abide by the minimum rear setback requirement. Since the applicant is needing to pull residential building permits in order to renovate the structure into livable space, a variance is needed as the structure is currently 1" from the rear property line.

### **Code Enforcement History**

There are no relevant or active Code Enforcement cases open in relation to the subject property.

### **Permit History**

Minor Building Permits were found in relation to the subject property from early 2021.

### **Zoning History**

The subject property was part of the Original San Antonio City Limits and was originally zoned “D” Apartment District. Upon adoption of the 2001 Unified Development Code, the zoning converted from “D” to “MF-33” Multi-Family District. The zoning changed from “MF-33” to the current “RM-4” Mixed Residential District on June 6, 2019, established by Ordinance 2019-06-06-0464.

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

<b>Existing Zoning</b>	<b>Existing Use</b>
“RM-4 H AHOD” Residential Mixed Monte Vista Historic Airport Hazard Overlay District	Single-Family Residence

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

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“RM-4 H AHOD” Residential Mixed Monte Vista Historic Airport Hazard Overlay District	Single-Family Residence
South	“RM-4 H AHOD” Residential Mixed Monte Vista Historic Airport Hazard Overlay District	Single-Family Residence
East	“RM-4 H AHOD” Residential Mixed Monte Vista Historic Airport Hazard Overlay District	Single-Family Residence
West	“RM-4 H AHOD” Residential Mixed Monte Vista Historic Airport Hazard Overlay District	Single-Family Residence

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

The subject property is in the Monte Vista Community Plan and is designated “Low Density Residential” in the future land use component of the plan. The subject property is located within the Monte Vista Neighborhood Association and they were notified of the case.

### **Street Classification**

East Lullwood Avenue is classified as a local road.

### **Criteria for Review - Variances**

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. The applicant is requesting the variance in order to pull building permits for an existing structure. The footprint of the structure will not be altered and the variance does not appear contrary to the public interest.

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

A literal enforcement of the ordinance would result in the applicant in relocating the existing structure 5' from the rear property line, which would result in unnecessary hardship as there is limited space in the rear yard. There was previously an alleyway which contributed to the rear setback when the structure was originally built.

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. Between the structure and the fence line for the property behind the structure there is about 7' of space.

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.*

**Staff finds the request for a 4' 11" variance is will not substantially injure adjacent properties or alter the essential character of the district. The structure has been non-conforming and the applicant is proposing to improve the structure with a fire-rated rear wall.**

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 the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property such as the small amount of available space in the rear yard.**

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

The alternative to the applicant's request is to conform to the Accessory Dwelling Regulations of Section 35-371.

### **Staff Recommendation - Side Setback Variance**

Staff recommends **Approval** in **BOA-21-10300107** based on the following findings of fact:

1. The detached accessory dwelling is 1" from the rear property line; and
2. The rear wall of the structure will be fire-rated; and
3. There are no proposed changes to the footprint of the structure so it will not alter the essential character of the district.