



# City of San Antonio

## Agenda Memorandum

**File Number:**16-5609

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**Agenda Item Number:** 3.

**Agenda Date:** 11/7/2016

**In Control:** Board of Adjustment

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Case Number: A-16-175  
Date: November 7, 2016  
Applicant: Consuelo Jasso  
Owner: Consuelo Jasso  
Council District: 7  
Location: 5803 Bennington Drive  
Legal: Lot 30, Block 12, NCB 13883  
Description:  
Zoning: "R-5 AHOD" Residential Single-Family Airport Hazard  
Overlay District  
Prepared By: Shepard Beamon, Senior Planner

### **Request**

A request for a five foot variance from the five foot minimum side setback, as described in Section 35-370 (b) (1), to allow a detached garage to be on the side property line.

### **Executive Summary**

The subject property is located at the intersection of Bennington Drive and Darwin Drive. The applicant is seeking a variance to allow an accessory structure to be five feet from the side property line. The accessory structure is located in the rear of the subject property, parallel to Darwin Drive. Darwin Drive is adjacent to Zarzamora Creek, an un-zoned right-of-way. The accessory structure is used for storage of maintenance items and for vehicles. The structure has an eave overhang that encroaches into the public right-of-way, which is prohibited. As such, even if the variance is granted, a portion of the garage will need to be removed.

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

Existing Zoning	Existing Use
"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

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

Orientation	Existing Zoning District(s)	Existing Use
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North	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
South	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
East	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
West	UZROW	Zarzamora Creek

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

The property is within the boundaries of the West/Southwest Sector Plan and designated as General Urban Tier land use. The subject property is located within the boundaries of the Thunderbird Hills Neighborhood Association. As such, the neighborhood association was notified and asked to comment.

### **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 public interest is represented by setbacks to ensure safe separation between structures to prevent the spread of fire, and also to ensure equal access to air and light. As the structure meets the rear setback and is not on the side property line abutting a residence, staff finds that the requested variance is not contrary to the public interest. The eave overhang must be removed.**

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

**The special condition present in this case is that the owner converted the attached garage into livable space and needed additional space for storage and vehicles. The literal enforcement would cause the owner to lose the added coverage for protection of personal property.**

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

**The spirit of the ordinance intends to provide fair distance between structures in residential zones. Since the accessory structure sits adjacent to a public right-of-way, there is less concern of fire spread or water runoff on adjacent properties. As such, staff finds that granting the variance will respect the ordinance and that substantial justice will be done.**

4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*

**The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the “R-5 AHOD” Residential Single-Family Airport Hazard Overlay 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 requested variance will not substantially injure the appropriate use of adjacent properties, nor will it alter the character of the district. The structure is located on the periphery of the neighborhood, along Zarzamora Creek and does significantly alter the character of the district. The structure does not pose**

any immediate fire threats or other property related hazards. Further, the structure does obstruct views for motorists and the adjacent property, or interfere with the Clear Vision requirements. As such, staff finds that the requested variance will not conflict with 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 unique circumstance in this case is the angle at which the owner has to maneuver a vehicle to park. Since the attached garage has been converted into livable space, the owner now parks in the rear. Instead of created a new curb cut, they redirected their driveway to the rear. The structure aligns to the new driveway to reduce excessive pivoting of the vehicle.

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

The applicant needs remove five feet of the structure to meet the setback.

### **Staff Recommendation**

Staff recommends **APPROVAL** of **A-16-175** based on the following findings of fact:

1. The structure meets the rear setback and is located adjacent to a public right-of-way and does not pose any immediate threats to adjacent residential properties;
2. The structure does not interfere with the Clear Vision requirements.