



# City of San Antonio

## Agenda Memorandum

**File Number:**17-3195

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**Agenda Item Number:** 8.

**Agenda Date:** 5/15/2017

**In Control:** Board of Adjustment

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**Case Number:** A-17-103  
**Applicant:** Juan Perez  
**Owner:** Juan Perez and Carmen Chavez  
**Council District:** 4  
**Location:** 11327 Valley Star Drive  
**Legal:** Lot 12, Block 14, NCB 14564  
**Description:**  
**Zoning:** "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District  
**Case Manager:** Margaret Pahl, AICP, Senior Planner

### Request

A request for a 5.5 foot variance from the minimum 20 foot rear setback, as described in Table 35-310, to allow a rear addition 14.5 feet from the rear property line.

### Executive Summary

The subject property is located in the southwest corner of the City near Spicewood Park, west of the Poteet Jourdanton Freeway. The Palo Alto Village Plat was recorded in 2004, creating the 5,000 square foot lot and the 1,200 square foot house was constructed in 2007. The applicant is seeking to complete a 232 square foot addition to the rear of the home. The applicant got approval from CPS to encroach six feet into the 20 foot rear utility easement, but did not realize the property also required a 20 foot zoning setback. Now the applicant is seeking a variance to allow the addition to remain and be completed. Work was stopped by Code Enforcement in March for construction without a permit. The owner applied for a permit and submitted the documentation, including the CPS approval, but the permit could not be issued, because of the setback encroachment, requiring the variance.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

### Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
South	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
East	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
West	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

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

The property is within the boundaries of the Heritage South Sector Plan area and designated as General Urban Tier in the future land use component of the plan. The subject property is not located within the boundaries of a registered neighborhood association.

### **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 a minimum rear setback, which is 10 feet in 9 of the 15 zoning districts, making this request not contrary to public interest.**

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

**Literal enforcement would require that the owner reduce the depth of the 16 foot addition by 6 feet, an unnecessary hardship. The small addition retains a 14 foot rear setback.**

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 rear setback is to provide open space for air and light, allow rainwater to recharge the groundwater and provide for quiet enjoyment of the outdoor space. This goal can be satisfied with the proposed 14 foot setback.**

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 uses specifically authorized in the "R-6 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 applicant is requesting a variance from the minimum rear setback, after already having gotten permission from CPS to allow the addition of a small bedroom. The addition is not visible from the public right of way and still provides a 14 foot setback.**

- 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 plight of the owner is unique in that they gained approval from CPS to encroach into their utility easement and was later given a building permit for the addition.**

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

Denial of the requested variance would result in the applicant having to relocate the rear wall six feet in, reducing the size of the bedroom.

### **Staff Recommendation**

Staff recommends **APPROVAL of the requested variance in A-17-103** based on the following findings of fact:

1. The applicant was granted approval by CPS and is requesting a building permit to allow the construction;
2. The new addition still provides a 14 foot setback from the rear property line.