



# City of San Antonio

## Agenda Memorandum

**File Number:**17-3841

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**Agenda Item Number:** 7.

**Agenda Date:** 6/19/2017

**In Control:** Board of Adjustment

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**Case Number:** A-17-119  
**Applicant:** David F. Bogle  
**Owner:** Rachel Cywinski  
**Council District:** 3  
**Location:** 2158 Steves Avenue  
**Legal:** Lot 15 & West 5 ft. of 16 , Block 3, NCB 6869  
**Description:**  
**Zoning:** "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District  
**Case Manager:** Shepard Beamon, Senior Planner

### Request

A request for 1) a two (2) foot variance from the five (5) foot side setback to allow an accessory dwelling three (3) feet from side property line; and 2) a 240 square foot variance from provision that an accessory dwelling unit shall not exceed 40% of the building footprint of the principal residence, all described in Section 35-371 (b), to allow 750 square foot accessory dwelling.

### Executive Summary

The applicant is constructing an accessory dwelling in the rear yard that is proposed to be in the side setback and exceeds the maximum square footage allowed for an accessory detached dwelling unit (ADDU). The accessory unit is currently a 340 square foot detached garage that has been in the same configuration since 1940, being three feet from the side property line, according to BCAD. The applicant wishes to adaptively reuse the garage and add rooms to the unit for additional living space. The primary dwelling currently has a building foot print of 1,275 square feet. 40% of the primary dwelling is 510 square feet. The proposed accessory dwelling is 750 square feet, which is 240 square feet larger than what's allowed, thus the request for the second variance.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

### Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwellings
South	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District; "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District; "RM-4 AHOD" Residential Mixed Airport Hazard Overlay District	Single-Family Dwellings
East	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwellings
West	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwellings

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

The property is within the boundaries of the Highlands Neighborhood Plan and is currently designated Low Density Residential under the future land use. 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 variances are not contrary to the public interest as the structure provides room for maintenance, will not create water runoff on the adjacent property, and will not injure the rights of the adjacent property owners.**

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

**An unnecessary hardship would result from the enforcement of the ordinance as the enforcement would result in the removal of a portion of a structure that has been in place for over 70 years.**

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

**Substantial justice will be done as the owner will be able to repair and adaptively reuse the structure and create a safe, habitable space. The requested ADDU would still provide light, air, and access for maintenance. Further, the request will not exceed the maximum 800 square foot accessory dwelling building footprint.**

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

**The variance will not authorize the operation of a use other than those uses specifically authorized in the "R-4 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.*

**In older neighborhoods such as this, it is common for accessory units to be located within the side and rear setbacks established by the current 2001 Unified Development Code. The requests will not detract from the character of the district. The proposed unit will be in the rear of the home, not visible from the public right-of-way. Within the time span the original garage has been in place, there has been no observed harm done to adjacent properties. As the expansion of the structure will occur away from the adjacent property, it is unlikely the request will injure the adjacent property.**

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 existing on the property is that the structure in question was originally built in the current location as a two-car garage in line with the existing driveway. As there is an existing cement slab used for the garage and uniquely sloped topography in the rear yard, it is more feasible to build on the existing building pad than elsewhere in the rear yard.**

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

Denial of the variance requests would result in the owner having to meet the five foot side and rear setback, as well as the maximum square footage for the accessory dwelling unit.

#### **Staff Recommendation**

Staff recommends **APPROVAL of the requested variances in A-17-119**, based on the following findings of fact:

1. The requested setbacks provide room for adequate light, air, and maintenance;
2. The variances are unlikely to detract from the character of the district;
3. The variances are unlikely to have a negative impact on the adjacent properties.