



# City of San Antonio

## Agenda Memorandum

**File Number:**18-1199

**Agenda Item Number:** 8.

**Agenda Date:** 1/8/2018

**In Control:** Board of Adjustment

Case Number: A-18-012  
Applicant: Nataly Jennings  
Owner: Nataly and Joshua A Jennings  
Council District: 1  
Location: 318 Refugio Street  
Legal: The North 51.5 Feet of Lot 5, Block 11, NCB 714  
Description:  
Zoning: "RM-4 H AHOD" Residential Mixed Lavaca Historic Airport  
Hazard Overlay District  
Case Manager: Oscar Aguilera, Planner

### Request

A request for 1) a one foot variance from the five foot side setback requirement, as described in Section 35-310.01, to allow a home addition to be four feet from the side property line and 2) a 3'8" variance from the ten foot rear setback, as described in Section 35-310.01, to allow a home addition to be 6'4" from the rear property line.

### Executive Summary

The applicant wishes to add an addition to the rear of the home. The Office of Historic Preservation has approved the proposed addition. The applicant is asking to encroach one foot into the five foot side setback and 3.8 feet into the ten foot rear setback. The property is only 2713 square feet and the home is too small (1096 square feet) for the family's needs. The applicant will fire-rate the addition's wall.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"RM-4 H AHOD" Residential Mixed Lavaca Historic Airport Hazard Overlay District	Single-Family Dwelling

### Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
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North	“RM-4 H AHOD” Residential Mixed Lavaca Historic Airport Hazard Overlay District	Single-Family Dwelling, Vacant Lot
South	“RM-4 H AHOD” Residential Mixed Lavaca Historic Airport Hazard Overlay District	Single-Family Dwelling
East	“RM-4 H AHOD” Residential Mixed Lavaca Historic Airport Hazard Overlay District	Single-Family Dwelling
West	“RM-4 H AHOD” Residential Mixed Lavaca Historic Airport Hazard Overlay District	Single-Family Dwelling

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

The subject property is within the boundaries of the Lavaca Neighborhood Plan and currently designated Low Density Residential in the future land use component of the plan. The subject property is within the Lavaca Neighborhood Association. As such, they were 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 represented by setbacks to provide separation between incompatible uses and to ensure fair and equal access to air and light. The proposed bathroom addition was approved by the Office of Historic Preservation and the proposed addition’s wall will be fire-rated. Staff finds that the request is not contrary to the public interest.**

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

**The special condition in this case is that the current home is only 1096 square feet in living area and the applicant is struggling to complete an addition that meets the required setback. Staff finds that a literal enforcement of the ordinance would result in unnecessary hardship.**

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 the intent of the requirements rather than the strict letter of the law. The intent of the setback is to provide sufficient separation between incompatible uses. Since the lot is only 2713 square feet and the applicant will provide a fire-rated wall for the addition, staff finds that the spirit of the ordinance will be observed.**

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 “RM-4 H AHOD” Residential Mixed Lavaca Historic 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.

**Since the lot is only 2713 square feet and the applicant will provide a fire-rated wall for the addition, it is unlikely that adjacent property will be harmed by the proposed development.**

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 present in the case is that the property addition does meet the side setback and there are similar rear setbacks within the subdivision. This setback issue is not merely financial in nature.**

**Alternative to Applicant's Request**

Denial of the variance request would result in the owner having to meet the required 20 foot rear setback and the five foot side setback.

**Staff Recommendation**

Staff recommends **APPROVAL of the requested variance in A-18-012**, based on the following findings of fact:

1. The variance is unlikely to harm adjacent properties, and;
2. The addition will be fire-rated.