



# City of San Antonio

## Agenda Memorandum

**File Number:**18-3211

**Agenda Item Number:** 10.

**Agenda Date:** 5/7/2018

**In Control:** Board of Adjustment

Case Number: A-18-084  
Applicant: Richard and Jeannine Rayfield  
Owner: Richard and Jeannine Rayfield  
Council District: 10  
Location: 15237 Pebble Falls  
Legal: Lot 29, Block 5, NCB 1680  
Description:  
Zoning: "R-6" Residential Single-Family District  
Case Manager: Dominic Silva, Planner

### Request

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

### Executive Summary

The subject property is located at 15237 Pebble Falls, approximately 990 feet northwest of Pebble Forest Drive. The applicant is seeking a variance to allow a shed, built in 1996, to remain 1" from the side property line. In 1996, the Unified Development Code would have required a three foot side setback. Today, accessory structures must be located five feet from the side property line unless they have no eave overhang. In the absence of an eave overhang, the structure would then be permitted three feet from the side or rear property lines. In this case the structure is built 1" away from the side property line.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-6" Residential Single-Family District	Single-Family Dwelling

### Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"C-2" Commercial District	Retail
South	"R-6" Residential Single-Family District	Single-Family Dwelling
East	"R-6" Residential Single-Family District	Single-Family Dwelling

West	"R-6" Residential Single-Family District	Single-Family Dwelling
------	--	------------------------

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

The property is located within the North Sector Plan and currently designated Suburban Tier in the future land use component of the plan. The subject property is within the Oak Hollow Park 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 defined as the general health, safety, and welfare of the public. In this case, the variance is not contrary to the public interest as the structure has been in place since 1996 with no issues thus far. Although the shed roof is sloped towards the adjacent property, adequate storm water runoff prevention measures have been observed by staff utilizing aluminum gutters and downspouts directing runoff away from the adjacent property.

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

Strict enforcement would result in the removal of the structure. As the shed is built between large mature trees and an adjacent property fence line coupled with the substantial size of the shed, moving it west of the adjacent property line could potentially be unsafe and result in an 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 requirement, rather than the strict letter of the law. The intent of setback limitations is to prevent fire spread, allow adequate space for maintenance, and encourage proper storm water drainage. A requirement of the permitting process is to fire rate the material closest to the adjacent property; the shed has remain unchanged since 1996; lastly, storm water drainage prevention controls are currently in place. In this case, the proposed setbacks reduction will not injure the rights of adjacent property owners, which observes the intent of the code.

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-6" Residential Single-Family 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 variance to the shed, which has been in place since 1996, is unlikely to injure the appropriate use of adjacent conforming properties. The shed is located behind a 6' privacy fence and bounded by large mature trees that obscure view from the right-of-way.

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 originated from the previous owner whom built this shed in 1996 with no knowledge of permitting requirements. The applicants moved into this property in 2000. Since then, the shed has remained in place.

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

Denial of the variance request would result in the owner removing the structure or following setback requirements within Section 35-370.

#### **Staff Recommendation**

Staff recommends **APPROVAL** of the requested variances in **A-18-084**, based on the following findings of fact:

1. Proper storm water runoff controls are in place, and;
2. The request does not negatively impact the surrounding property owners nor will it significantly alter the appearance of the district.