



# City of San Antonio

## Agenda Memorandum

**File Number:**18-4554

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**Agenda Item Number:** 6.

**Agenda Date:** 8/6/2018

**In Control:** Board of Adjustment

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Case Number: A-18-125  
Applicant: Rosa Cazares  
Owner: Rosa Cazares  
Council District: 5  
Location: 100 Faust Avenue  
Legal: Lots 22 & 23, Block 10, NCB 8255  
Description:  
Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard  
Overlay District  
Case Manager: Dominic Silva, Planner

### **Request**

A request for a 13.5' variance from the 20' rear setback, as described in Section 35.310.01, to allow the structure to have as little as 6.5' rear setback.

### **Executive Summary**

The subject property is located at 100 Faust Avenue on the corner of Matyear Road, approximately 564' north of West Commerce Street. The applicant is applying for a rear setback variance to keep an addition that was built without permits. Currently, the addition is detached, however because the property is located within the 100-year flood plain, building code requires the addition to be attached. The lot is located adjoining a rear alley way which provides some setback relief for the addition. The structure to the west currently provides only 1' of distance to the property line but will be removed to comply with the site plan of 6'. The code only requires a 5' side setback.

The general characteristic of the district consists of small primary residences and detached accessory dwelling units. 100 Faust's east property line faces an adjacent commercial property, which provides parking for a college prep high school.

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

<b>Existing Zoning</b>	<b>Existing Use</b>
“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

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

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
South	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
East	“C-2 AHOD” Commercial Airport Hazard Overlay District	University Prep High School
West	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

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

The property is within the Westside Community Plan and has no future land use designation. The subject property is located within the boundaries of the Prospect Hill Neighborhood Association. As such, they were notified and asked to comment.

### **Street Classification**

Faust Avenue is classified as a local.

### **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 addition will provide adequate habitable living space while also maintaining a rear setback for accessibility to light, air, and open space due to the rear alley. Staff finds 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.*

**Due to the limited space of the existing primary dwelling, a literal enforcement of the ordinance would result in unnecessary hardship by significantly reducing the amount of developable space on this site and others in the neighborhood. The 100-year flood plain does not allow for a separate habitable structure to be added; an attached addition is permitted.**

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 code, rather than the strict letter of the law. The intent of the setback limitation is to prevent fire spread, allow adequate space for maintenance, and encourage open space between structures. All intents of this law will be observed if approved.**

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 requested variance will not permit a use not authorized within 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.*

**This variance would not substantially injure or alter the use or character of adjacent conforming property or character of the district. Many properties within the immediate vicinity have additions due to the size constraints of the primary residences.**

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 circumstances existing on the property are due to the general conditions of the district, specifically the constraints of development within the 100-year flood plain. The plight of the owner is not merely financial in nature.**

### **Alternatives to Applicant’s Request**

The alternative to the applicant’s request is to conform to rear setbacks set forth in the Unified Development Code.

### **Staff Recommendation**

Staff recommends **APPROVAL** of **A-18-125** based on the following findings of fact:

1. The requested variance will not detract from the character of the district, and;
2. Adequate space will be utilized to maintain the structure without trespass, and;
3. The presence of a rear alley provides relief between the applicant’s property and the adjacent property.