



# City of San Antonio

## Agenda Memorandum

**File Number:**19-1451

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**Agenda Item Number:** 10.

**Agenda Date:** 1/14/2019

**In Control:** Board of Adjustment

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Case Number: BOA-18-900023  
Applicant: German Santos Garcia  
Owner: German Santos Garcia  
Council District: 5  
Location: 3418 Morales Street  
Legal: Lot 3, Block 53, NCB 3652  
Description:  
Zoning: "R-4 MLOD-2 MLR-2 AHOD" Residential Single-Family  
Lackland Military Lighting Overlay Military Lighting  
Region 2 Airport Hazard Overlay District  
Case Manager: Debora Gonzalez, Senior Planner

### **Request**

A request for 1) a 370 square foot variance from the maximum 446 square foot accessory dwelling unit, as described in Section 35-371 (b)(1), to allow an accessory dwelling unit to be 726 square feet and 2) a 2' variance from the 5' side setback, as described in Section 35-310.01, to allow a detached accessory dwelling unit to be 3' from the side property line.

### **Executive Summary**

The subject property is located at 3418 Morales Street, approximately 129 feet east of Northwest 23<sup>rd</sup> Street. The applicant is renovating an existing detached shed and turning it into an accessory dwelling unit which exceeds the maximum 40% percent of the building footprint of the principal residence. The principal residence building footprint has an area of 1116 square feet on a 7,700 square foot lot. The detached accessory dwelling unit is located in the rear and abuts an accessible alley. During field visits, staff noted that other properties have similar sheds located in the rear.

### **Code Enforcement History**

On 11.19.2018, a citation was given for rebuilding a detached accessory dwelling unit in the rear without permits.

### **Permit History**



No permit history related to this accessory dwelling unit exists on the property. The property owner is seeking a variance to allow for permit to be issued.

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

Existing Zoning	Existing Use
“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling

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

Orientation	Existing Zoning District(s)	Existing Use
North	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling
South	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling
East	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling
West	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling

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

The subject property is not within the boundaries of a sector, community, or neighborhood plan. The subject property is located within the boundaries of Prospect Hill/West End Hope in Action Neighborhood Association. As such, they were notified and asked to comment.

### **Street Classification**

Morales Street 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 protected by a requirement that accessory dwelling structures remain subservient**



**to the principal dwelling unit. In this case, the detached accessory dwelling unit is highly unlikely to be noticed from the public right-of-way. The variance to reduce the side setback and to allow the increase in size for the detached accessory dwelling structure is not contrary to the public interest.**

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

**The additional square footage for the detached accessory dwelling unit is not overwhelming, and allows for adequate air and light in the yard. The detached accessory dwelling unit is proportional to the main structure, the size of the lot, and the neighboring lots.**

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

**The spirit of the ordinance represents the intent of the requirement. The detached accessory dwelling unit is proportional to the size of the home, the size of the lot, and is within the character of the community.**

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 authorized in the zoning 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 size of the accessory dwelling unit is proportional with the size of the main home, the size of the lot, and the accessory dwelling unit will comply with the one bedroom one bath requirement of the code. In addition the structure will not impose any immediate threat of water runoff or fire spread on adjacent properties.**

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 in this case is that the owner is converting the original shed into a detached accessory dwelling unit within the same side setback. The accessory dwelling unit will be proportional in size with the primary dwelling.**

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

The alternative to the applicant's plan would be to comply with the side building setbacks as defined within Section 35-310.01.

### **Staff Recommendation**

Staff recommends **APPROVAL** of **BOA-18-900023**, based on the following findings of fact:

1. The requested variances are not contrary to the public interest since the detached accessory dwelling unit is proportional to the main structure and the lot;
2. The additional square footage in the detached accessory dwelling unit leaves adequate side and rear yard open space.