



# City of San Antonio

## Agenda Memorandum

**File Number:**19-1765

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**Agenda Item Number:** 6.

**Agenda Date:** 2/4/2019

**In Control:** Board of Adjustment

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Case Number: BOA 18-900029  
Applicant: Gabriel Elizondo  
Owner: Gabriel Elizondo  
Council District: 5  
Location: 244 Jennings Avenue  
Legal: The East 42.5 Feet of Lot 4, Block 16, NCB 3421  
Description:  
Zoning: "R-5 MLOD-2 MLR-2 AHOD" Residential Single-Family  
Lackland Military Lighting Overlay Military Lighting  
Region 2 Airport Hazard Overlay District  
Case Manager: Mercedes Rivas, Planner

### **Request**

A request for a 1'8" variance from the 5' setback requirement, as described in Section 35-371(a), to allow for a structure to be 3'4" from the side property line.

### **Executive Summary**

The subject property is located at 244 Jennings Avenue. The applicant is requesting a decrease of the rear building setback line for an existing detached accessory structure in order to convert a garage to an accessory dwelling unit.

### **Code Enforcement History**

No violations of the requirements of the UDC were observed upon a staff visit to the site, and there have been no code violations reported.

### **Permit History**

No permits have been issued within the last 10 years.

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

Existing Zoning	Existing Use
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“R-5 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling
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### **Surrounding Zoning/Land Use**

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“R-5 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-5 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-5 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-5 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 property is within the Nogalitos/South Zarzamora Plan Plan and is designated “Low Density Residential” in the future land use component of the plan. The subject property is not within a neighborhood association.

### **Street Classification**

Jennings Avenue is classified as a Local Street.

### **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 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 strict**

**enforcement would require the owner of the property to demolish and rebuild the structure in question.**

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 requested setbacks will still provide for a safe development pattern. The request provides fair and equal access to air and light, and provides for adequate fire separation.**

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 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.*

**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 Unified Development Code. The request will not detract from the character of the district. The unit in question is in the rear yard, not affecting the public right-of-way. The structure in question does not 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 has already been constructed, and when constructed, was only required to provide a 3' side and rear setback.**

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

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

#### **Staff Recommendation**

Staff recommends **APPROVAL** of the requested variances in **18-900029**, based on the following findings of fact:

1. The requested setback provides room for adequate light, air, and maintenance, and;
2. The variance is unlikely to detract from the character of the district, and;
3. The variance is unlikely to have a negative impact on the adjacent properties.