



# City of San Antonio

## Agenda Memorandum

**File Number:**19-3009

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**Agenda Item Number:** 7.

**Agenda Date:** 4/1/2019

**In Control:** Board of Adjustment

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Case Number: BOA 19-10300008  
Applicant: Juana Vaquera  
Owner: Juana Vaquera  
Council District: 5  
Location: 1202 Gladstone Street  
Legal: Lot 1 and 2, Block 12, NCB 6070  
Description:  
Zoning: "R-4 MLOD-3 MLR-2" Residential Single-Family  
Martindale Army Air Field Military Lighting Overlay  
Military Lighting Region 2 District  
Case Manager: Mercedes Rivas, Planner

### **Request**

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

### **Executive Summary**

The subject property is located at 1202 Gladstone Street. The applicant is requesting a decrease of the side building setback line for an existing detached accessory structure in order to keep the detached accessory structure where it is currently located. There are several structures encroaching on the rear and side setbacks within this community.

### **Code Enforcement History**

On October 15, 2018 the applicant received a code violation for building without a permit.

### **Permit History**

There is no permit history related to the accessory structure on the property. The property owner is seeking a variance to allow for permit to be issued.

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

<b>Existing Zoning</b>	<b>Existing Use</b>
“R-5 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 MLOD-3 MLR-2” Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 District	Single-Family Dwelling
South	“R-4 MLOD-3 MLR-2” Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 District	Single-Family Dwelling
East	“R-4 MLOD-3 MLR-2” Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 District	Single-Family Dwelling
West	“R-4 MLOD-3 MLR-2” Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 District	Single-Family Dwelling

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

The property is within the Nogalitos/South Zarzamora Community Plan and is designated “Low Density Residential” in the future land use component of the plan. The subject property is not located within a Neighborhood Association.

### **Street Classification**

Gladstone Street 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 served by setbacks, which help to provide consistent development within the City of San Antonio. The applicant is seeking a variance to allow the detached accessory structure to remain one foot from the side property line. Allowing the carport to be one foot from the side property line interferes with the character of the neighborhood. Staff finds that the detached accessory structure, as proposed, is contrary to the

public interest.

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

Staff is unable to establish any special condition that warrants reducing the side setback to one foot.

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. In this case, the intent is to provide enough of a setback to allow for long-term maintenance without trespass. The elimination does not provide such clearance and does not observe the spirit of the ordinance.

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 variance will not authorize the operation of a use other than those uses specifically authorized by 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 placement of a detached accessory structure one foot from the side property line is contrary to the essential character of the district.

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.*

Staff is unable to determine any unique circumstance existing on the site that warrants the near elimination of the side 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 **DENIAL with an Alternate Recommendation of a 2' variance from the 5' side setback to allow a detached accessory structure to be 3' from the side property line in 19-10300008**, based on the following findings of fact:

1. The detached accessory structure is contrary to the public interest in that it detracts from the essential character of the community.