



# City of San Antonio

## Agenda Memorandum

**File Number:**19-8515

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**Agenda Item Number:** 4.

**Agenda Date:** 11/18/2019

**In Control:** Board of Adjustment

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**Case Number:** BOA-19-10300129

**Applicant:** Sandra Hernandez

**Owner:** Sandra Hernandez

**Council District:** 5

**Location:** 131 E Lambert

**Legal** Lot 7, Block 4, NCB 2934

**Description:**

**Zoning:** "R-6 MLOD-2 MLR-2 AHOD" Residential Single Family  
Lackland AFB Annex Military Lighting Overlay Airport  
Hazard Overlay District

**Case Manager:** Rachel Smith, Planner

### **Request**

Requests for 1) a 2' variance from the 5' side and rear setback requirement as described in Section 35-310.01, to allow an accessory detached dwelling unit to be 3' away from the side and rear property lines, and 2) a 20 square feet variance from the 40% footprint limitation of the principal residence, as described in Section 35-371, to allow an accessory detached dwelling unit to be 506 square feet.

### **Executive Summary**

The subject property is located at 131 E Lambert, near South Flores along the north blockface. The primary dwelling is a one-story home that was constructed in 1938. The property also has a detached garage that was 506 square feet when built. The property is currently in the same configuration as it was in 1929 and is not platted. The applicant began construction on the garage without a permit back in September. The applicant states as soon as they learned a permit was required, they stopped working on the project to begin the permitting process. The building footprint of the primary structure is 1215 square feet, which would allow for an accessory detached dwelling of 486 square feet. The applicant is requesting a 20 square foot variance, an increase of 4% of allowable ADDU size to allow the existing garage to be converted to an ADDU.

Upon a visit to the site, the staff noticed that the project was under construction and appeared to have two rooms with closets. Staff informed the applicant of this and the necessary process, the applicant responded by removing the closet as shown in the site plan.

### **Code Enforcement History**

10/10/2019: Building without permit

### **Permit History**

There is no permit history on file for the accessory structure.

### **Zoning History**

The subject property is within the Original 36 square miles of the City of San Antonio and was zoned “C” Apartment district. Under the 2001 Unified Development Code, established by Ordinance #93881, dated May 3, 2001, the property zoned “C” Apartment district was converted to “MF-33” Multi-family district. The property was rezoned by Ordinance #2006-12-14-1441, dated December 24, 2006, to the current “R-6” Residential Single-Family District.

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

<b>Existing Zoning</b>	<b>Existing Use</b>
“R-6 MLOD-2 MLR-2 AHOD” Residential Single Family Lackland AFB Annex Military Lighting Overlay 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-6 MLOD-2 MLR-2 AHOD” Residential Single Family Lackland AFB Annex Military Lighting Overlay Airport Hazard Overlay District	Single-family dwelling
South	“R-6 MLOD-2 MLR-2 AHOD” Residential Single Family Lackland AFB Annex Military Lighting Overlay Airport Hazard Overlay District	Single-family dwelling, School
East	“R-6 MLOD-2 MLR-2 AHOD” Residential Single Family Lackland AFB Annex Military Lighting Overlay Airport Hazard Overlay District	Single Family Dwelling
West	“R-6 MLOD-2 MLR-2 AHOD” Residential Single Family Lackland AFB Annex Military Lighting Overlay Airport Hazard Overlay District	Single Family Dwelling

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

The property is within the Lone Star Neighborhood Association boundaries. The property is designated as “Low-Density Residential” within the future land use element of the Lone Star neighborhood plan.

### **Street Classification**

Lambert 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 community. The requested variance is not found to be contrary. Specifically, staff finds that the structure has existed for years in that location and there will be no change to the size. Improvements will be made to make the structure consistent with the design of the primary structure. The placement of the structure provides enough clearance to prevent fire spread, maintain stormwater runoff on-site, and allow long term maintenance without trespassing on adjacent property.**

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

**The special conditions are that the detached accessory structure was built in its current location within the setback more than 20 years ago according to Google Earth and the applicant is only seeking to convert the structure to an accessory detached dwelling unit (ADDU). A literal enforcement would mean that the property owner would need to alter the size of the current structure and/or move the structure which would be 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 code, staff finds that this variance observes the spirit of the ordinance by allowing for adequate light, space for maintenance and stormwater runoff, and maintains adequate distance to the nearest accessory structure to the north of the property.**

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 ADDU is allowed within the Residential Single-Family District and the applicant is not requesting additional uses with this request.**

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 surrounding single-family dwellings will not be injured by the granting of this variance, as there will not be any change in the location or size of the current structure. There are several properties in the surrounding area with accessory structures situated similarly near the side and rear property lines.**

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 accessory structure exists on the site in the current placement, not by the work of the property owner. The owner wishes to convert the structure to an accessory detached dwelling unit (ADDU) in its current placement. The circumstance was not created by the property owner, is not the result of the general conditions in the district, nor is it merely financial in nature.**

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

The alternative to the applicant's request is to conform to the setback limitations established by the Unified Development Code Section 35-310.01 and to the Accessory Detached Dwelling Unit standards established by Section 35-371.

### **Staff Recommendation**

Staff recommends **APPROVAL** of the special exception in **BOA-19-10300129** based on the following findings of fact:

1. The structure has existed in that location for years with no registered complaints.
2. The project will remain consistent with the character of the surrounding community.
3. The applicant does not wish to increase the size or footprint of the existing structure.