



# City of San Antonio

## Agenda Memorandum

**File Number:**20-2311

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**Agenda Item Number:** 8.

**Agenda Date:** 3/2/2020

**In Control:** Board of Adjustment

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Case Number: BOA-20-10300015  
Applicant: Rafael Sanchez  
Owner: Rolando & Virginia Gonzalez  
Council District: 3  
Location: 1133 91<sup>st</sup> St, San Antonio, 78214  
Legal: Lot 31, NCB 7438  
Description:  
Zoning: "R-5 H AHOD" Residential Single-Family Mission Historic  
Airport Hazard Overlay District  
Case Manager: Justin Malone, Planner

### **Request**

A request for a 1'10" variance from the 5' side setback requirement, as described in section 35-310.01, to allow a residential dwelling unit to be 3'2" away from the side property line.

### **Executive Summary**

The subject property is located at 1133 91<sup>st</sup> St., approximately 586 feet from the intersection of Roosevelt Avenue and 91<sup>st</sup> Street and approximately 600 feet from the intersection of Roosevelt Avenue and March Avenue. The applicant built a new residential structure on a corner lot, with the foundation of the residence exceeding setback boundaries along the side property line. A residential building permit was issued on September 20, 2019 and all building plan reviews were completed.

The applicant stated that he will not be adding any additional encroachments on the side of the property, only keeping the existing built foundation as is. During site visits, Staff noted that residential structure is already built and is not violating any setback guidelines on neighboring properties, with the exception of the setback variance being requested.

### **Code Enforcement History**

No code enforcement history.

## **Permit History**

A residential building permit was issued on September 20, 2019 and all building plan reviews were completed.

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

<b>Existing Zoning</b>	<b>Existing Use</b>
"R-5 H AHOD" Residential Single-Family Mission Historic 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-5 H AHOD" Residential Single-Family Mission Historic Airport Hazard Overlay District	Single-Family Dwelling
South	"R-6 H MC-1 AHOD" Residential Single-Family Mission Historic Roosevelt Avenue Corridor Airport Hazard Overlay District	Sports Complex
East	"R-5 H AHOD" Residential Single-Family Mission Historic Airport Hazard Overlay District	Single-Family Dwelling
West	"R-5 H MC-1 AHOD" Residential Single-Family Mission Historic Roosevelt Avenue Corridor Overlay Airport Hazard Overlay District	Single-Family Dwelling

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

The subject property is within the boundaries of the South Sector Plan and currently designated as Low Density Residential in the future land use component of the plan. The subject property is located within the boundaries of the Mission Historic District and the World Heritage Buffer Zone. The subject property is not located within a registered neighborhood association.

## **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, given the lot constraints, granting the variances still provides adequate accessibility to light, air, and open space.**

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

**A literal enforcement of the ordinance would result in unnecessary hardship by requiring the demolition and rebuilding of a portion of the structure that is within the side setback.**

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 proper storm water drainage. 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-5 H” Residential Single-Family Mission Historic 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. Specifically, the variance would not place the structure out of character within the community.**

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 variance being sought is due to the size constraints of the side property in regard to a 5’ side setback from the property line. If approved, adequate space will be reserved for setbacks, maintenance of the structure without trespass, and storm water controls.**

### **Alternative to Applicant’s Request**

Denial of the variance request and special exception would result in the owner having to meet the required setbacks in Section 35-310.01.

### **Staff Recommendation**

Staff recommends **APPROVAL** of **BOA-20-10300015**, based on the following findings of fact:

1. The requested variance is will not detract from the character of the district, and;
2. Adequate space will be utilized to prevent storm water runoff, maintenance of property, and maintenance of the structure without trespass.