



# City of San Antonio

## Agenda Memorandum

**File Number:**20-3368

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**Agenda Item Number:** 4.

**Agenda Date:** 6/1/2020

**In Control:** Board of Adjustment

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**Case Number:** BOA-20-10300043

**Applicant:** Priscilla Loker

**Owner:** Priscilla Loker

**Council District:** 10

**Location:** 232 Brightwood Place

**Legal:** Lot 8, Block 11, NCB 9153

**Description:**

**Zoning:** "NP-8 AHOD" Neighborhood Preservation Airport Hazard  
Overlay District

**Case Manager:** Dominic Silva, Senior Planner

### **Request**

A request for a 3' variance from the 5' side setback requirement, as described in Section 35-370 and 35-371, to allow an accessory detached dwelling unit to be 2' away from the side property line.

### **Executive Summary**

The subject property is a single family home located approximately 1,000' east of Broadway and East Basse Road. The applicant is requesting to remodel and upgrade the existing accessory detached dwelling unit in the rear property, within the side setback, to current code. The accessory detached dwelling unit will maintain the current size and exterior configuration. The subject property is located adjacent to an improved alley, thus no rear setback variances are required for the detached accessory dwelling unit.

The character of the neighborhood consists of compact lot single family residences with detached accessory structures within the rear of the properties and access from the improved alley. Directly behind with shared access of the alley is Alamo Heights, which is outside city limits.

Neighboring property 222 Brightwood was approved an identical request during the March 2, 2020 hearing cycle as case BOA-20-10300019.

### **Code Enforcement History**

There is no code enforcement history on file for this property.

### **Permit History**

The property has no permits on file related to this request.

### **Zoning History**

The subject property was annexed in December 29, 1945 with Ordinance 2941 and was zoned as “A” Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 3, 2001, the property zoned “A” Residence District converted to “R-5” Single-Family Residential District. On April 6, 2005, the “R-5” Single-Family Residential District converted to the current “NP-8” Neighborhood Preservation District by Ordinance 2006-06-15-0728.

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

<b>Existing Zoning</b>	<b>Existing Use</b>
“NP-8 AHOD” Neighborhood Preservation Airport Hazard Overlay District	Residential

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

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“NP-8 AHOD” Neighborhood Preservation Airport Hazard Overlay District	Residential
South	Outside City Limits	Residential
East	“NP-8 AHOD” Neighborhood Preservation Airport Hazard Overlay District	Residential
West	“NP-8 AHOD” Neighborhood Preservation Airport Hazard Overlay District	Residential

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

The subject property is in the Northeast Inner Loop Plan and designated as “Low Density Residential” in the future land use component of the plan. The subject property is in the boundaries of the Oak Park-Northwood Neighborhood Association and as such, they were notified of the case.

### **Street Classification**

Brightwood Place 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 accessory detached dwelling unit provides adequate habitable living space while also maintaining a rear and side setback for accessibility to light, air, and open space. Staff finds the request is not contrary to the public interest.

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

The community is characterized by detached accessory structure, built circa 1949, within setbacks established after their development. Literal enforcement of the ordinance would result in unnecessary hardship by prohibiting the owner to utilize the accessory detached dwelling unit as a habitable space as it was intended.

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 variance will not authorize the operation of a use other than those uses specifically authorized in the “NP-8” Neighborhood Preservation 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 structures are located within the rear of the primary residence and not visible from the front property. Further, these structures have been in existence circa 1949 and have no record of code enforcement history or citizen complaints. The structures the variances are requested for follows a district norm of reduced setbacks built within the area.

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 circumstances existing on the property are neither due to the general conditions of the district, nor due to the owner, and is not financial in nature. The character of reduced lot sizes within the district is uniform, leaving little room for proper building setbacks. This is created by the proliferation of older, outdated substandard lots.

### **Staff Recommendation**

Staff recommends **APPROVAL** of the variances in **BOA-20-10300043** 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, and;
3. The lot is too small to reasonably provide for all required setbacks, and;
4. No new development is being proposed.