



# City of San Antonio

## Agenda Memorandum

**File Number:**15-4896

**Agenda Item Number:** 10.

**Agenda Date:** 9/21/2015

**In Control:** Board of Adjustment

**Case Number:** A-15-142  
**Applicant:** David Moreno  
**Owner:** David Moreno Construction, LLC  
**Council District:** 2  
**Location:** 1819 North Hackberry Street  
**Legal Description:** Lot 12, Block 10, NCB 481  
**Zoning:** "RM-6 AHOD" Residential Mixed Airport Hazard Overlay District  
**Case Manager:** Kristin Flores, Planner

### Request

A request for a 10 foot variance from the 20 foot minimum rear setback requirement, as described in Table 35-301-1, to allow a home to be constructed 10 feet from the rear property line.

### Executive Summary

The subject property is located at 1819 North Hackberry Street 180 feet East of Austin Street. The subject property is a vacant lot on which the applicant plans to build a home. This neighborhood consists of modest homes with front porches, garages in the rear, and front yards all of which increase community engagement and create a sense of community. The applicant proposed to build an attached garage in the front of the proposed home. As described Section 35-370 (b), a garage must be built 20 feet from the property line. The applicant wishes to reduce the rear setback requirements by 50% to accommodate a design which places a garage in the front of a home. Unfortunately, placing a garage in the front of a home is inconsistent with the housing designs throughout the neighborhood.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"RM-6 AHOD" Residential Mixed Airport Hazard Overlay District	Vacant Lot

### Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
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North	“RM-6 AHOD” Residential Mixed Airport Hazard Overlay District	Vacant Lot
South	“RM-6 AHOD” Residential Mixed Airport Hazard Overlay District	Single Family Residence
East	“R-6 AHOD” Residential Airport Hazard Overlay District	Single Family Residence
West	“RM-6 AHOD” Residential Mixed Airport Hazard Overlay District	Single Family Residence

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

The property is located within the boundaries of Government Hill Neighborhood Plan and is designated as Mixed Use in the future land use component of the plan. The subject property is located within the boundaries of the Government Hill Alliance Neighborhood Association. As such, the neighborhood association was notified and asked to comment.

### **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, these criteria are represented by minimum rear setbacks to protect home owners, and also to provide for a sense of community.

The applicant wishes to reduce the required setbacks in order to accommodate a garage in the front of the proposed home. Homes in this neighborhood were built with front porches, not garages in the front of the home. Front porches encourage a sense of community and provide the opportunity for more eyes on the street. As it stands, the applicant can build a home with a garage on the subject property while remaining within the current setback standards. Within the current setbacks, the applicant can choose a design with a detached garage in the rear of the property which would not only provide the home with a garage, but would also increase the space available for increased square footage. Additionally, the applicant could choose to increase possible square footage by building vertically. The applicant, by right, can construct a building with a maximum of 35 feet of height. A variance to decrease the rear setback in an effort to accommodate a garage in the front of the home would be contrary to the public interest.

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

The applicant wishes to reduce the rear setbacks in an effort to accommodate a garage. Due to the small lot size the rear setback would need to be reduced in order to accommodate such a request. The desire to include a garage in the front of a home is not a special condition.

*3. By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

Granting the requested rear setback variance will not result in substantial justice as the applicant has other options to achieve the goal of including a garage and increasing possible square footage. Adhering to the setbacks during construction of the home will respect the nature and character of the community.

*4. The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*

The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the “RM-6 AHOD” Residential Mixed Airport Hazard Overlay 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.*

Allowing the applicant to reduce the rear setback to accommodate a garage in the front of the proposed home will alter the essential character of the community. This neighborhood is a community of front porches which provide for a sense of community by creating social ties. Unfortunately, building a garage in the front of a home will not provide this opportunity for the future resident of the home. In addition to a lack of garages in the neighborhood, most homes in this neighborhood have been built 10 feet from the front property line and not at 20 feet like the proposed home. Allowing the applicant to reduce the rear setback to allow a garage to be built 20 feet from the front property line is not in keeping with the character of 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 desire to reduce the rear setback to include a garage to be set back 20 feet from the property line is not a unique circumstance. If the applicant wishes to include a garage on the subject property, a detached garage, that would respect standard setbacks, can be built in the rear of the property. In addition, if the applicant wishes to increase square footage moving the garage to the rear of the home would provide more space for increasing overall square footage or the applicant could add a second story to the proposed home. A desire to have a garage in the front of a home is not a unique circumstance.

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

The applicant must build the home to respect the required setbacks.

### **Staff Recommendation**

Staff recommends **DENIAL of the 10 foot variance from the 20 foot minimum rear setback requirement to allow a home to be constructed 10 feet from the rear property line in case A-15-142** based on the following findings of fact:

1. The request is not in keeping with the character of the community. The requested variance is needed in order to accommodate a garage in the front of a proposed home located in a neighborhood where garages in the front of homes are not common;
2. A desire to have a garage in the front of a home is not a unique circumstance;
3. The applicant has other options to achieve the inclusion of a garage and additional square footage within the current setbacks.

### **Attachments**

Attachment 1 - Notification Plan (Aerial Map)  
Attachment 2 - Plot Plan (Aerial Map)  
Attachment 3 - Site Plan  
Attachment 4 - Site Photos