



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** May 5, 2025

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

**DEPARTMENT HEAD:** Michael Shannon, Director

**CASE NUMBER:** BOA-25-10300060

**APPLICANT:** Maite Landa

**OWNER:** Maite Landa

**COUNCIL DISTRICT IMPACTED:** District 1

**LOCATION:** 1101 West Mulberry Avenue

**LEGAL DESCRIPTION:** Lot 45 and Lot 46, Block 22, NCB 1805

**ZONING:** "R-6 NCD-5 AHOD" Residential Single-Family Beacon Hill Area Neighborhood Conservation Airport Hazard Overlay District

**CASE MANAGER:** Jewel Polimis, Planner

**A request for**

1) A variance from the NCD-5 standards to exceed the 40% footprint for an accessory dwelling.  
Section 35-335

2) A variance from the NCD-5 standard for matching roof material with the principal dwelling and accessory dwelling.  
Section 35-335

3) A variance from the NCD-5 standard requiring front façade windows at a 2:1 ratio.  
Section 35-335

**Executive Summary**

The subject property is in the Beacon Hill area, just north of downtown. The applicant applied for a permit to remodel and expand the accessory dwelling unit by enclosing a porch, extending the roof, replacing some walls and part of the slab foundation. Due to the carport being replaced, the structure would not qualify for a nonconforming structure. The remodeled detached accessory dwelling exceeds the Unified Development Code standard of 800-square feet or 50% of the principal dwelling, and the more stringent NCD-5 standard of a 40% of the principal structure's footprint limit on all accessory structures. The principal structure footprint is 1,448-square feet, which would permit 579-square feet of accessory structures. The requested accessory structure/dwelling is 924-square feet. Additionally, the accessory structure's roof material does not match the principal structure's roof material, which is required in the NCD-5. Lastly, the street facing window of the accessory dwelling unit does not meet the NCD-5 ratio of 2:1. The original detached accessory dwelling had no street facing windows however, the new structure has a window that is not compliant with the NCD-5 standard.

### **Code Enforcement History**

INV-OYT-20-2550003933 – October 23, 2020 – Overgrown Yard - Trash  
INV-AWM-23-2560031000 – April 26, 2023 – Alleyway Maintenance

### **Permit History**

RES-RBP-APP25-35500515 – February 10, 2025 – Accessory Dwelling Renovation – Pending BOA results

### **Zoning History**

Subject property is located within the original 36 square miles of the City of San Antonio. The property was rezoned by Ordinance 86704, dated September 25, 1997, to the "R-1" Single-Family Residence District. With the adoption of the 2001 Unified Development Code (UDC), established by Ordinance 93881, on May 3, 2001, the subject property converted from "R-1" Single-Family Residence District to the current "R-6" Residential Single-Family District.

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

#### **Existing Zoning**

"R-6 NCD-5 AHOD" Residential Single-Family Beacon Hill Area Neighborhood Conservation Airport Hazard Overlay District

#### **Existing Use**

Dwelling Unit

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

#### **North**

#### **Existing Zoning**

"R-6 NCD-5 AHOD" Residential Single-Family Beacon Hill Area Neighborhood Conservation Airport Hazard Overlay District

#### **Existing Use**

Dwelling Unit

#### **South**

#### **Existing Zoning**

“R-6 NCD-5 AHOD” Residential Single-Family Beacon Hill Area Neighborhood Conservation  
Airport Hazard Overlay District

**Existing Use**  
Dwelling Unit

**East**

**Existing Zoning**

“R-6 NCD-5 AHOD” Residential Single-Family Beacon Hill Area Neighborhood Conservation  
Airport Hazard Overlay District

**Existing Use**  
Dwelling Unit

**West**

**Existing Zoning**

“R-6 NCD-5 AHOD” Residential Single-Family Beacon Hill Area Neighborhood Conservation  
Airport Hazard Overlay District

**Existing Use**  
Dwelling Unit

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

The subject property is in the “Midtown Neighborhoods Neighborhood Plan” and is designated as “Low Density Residential”. The subject property is located within the notification area of the Beacon Hill Area Neighborhood Association and the San Antonio Texas District One Resident Association, and they have been notified of the request.

### **Street Classification**

West Mulberry Avenue is classified as a Local Street.  
Michigan Avenue is classified as a Local Street.

### **Criteria for Review – NCD-5 Standards**

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 public interest is represented by exceeding the size limit of the accessory structure, matching roof materials and window standards within a Neighborhood Conservation District. The requests would not be against public interest as the historical size of the accessory structure would remain the same and is in compliance with accessory structure requirements, the roof material provides a more durable roof for the structure and the primary structure will also be re-roofed to match, and window placement is located approximately more than 100-feet from the street.

*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, as the size of the structure would be unnecessarily reduced, the replaced roof was substandard and needed to be replaced and the limited street facing accessory structure facade would be dominated by the 2:1 ratio window, which is reserved for the primary structure.

*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 defined as the intent of the code, rather than the exact letter of the law. The historical existing size of the of the structure exceeds the conservation district's standards and reducing the size is not the intent of the code. The mismatching roofing material was a replacement of an aging roof on the accessory structure and preventing a structural roof is not contrary to the spirit of the ordinance. The street facing portion of the accessory dwelling is limited and a conservation district standard would force a larger window on a certain portion of the accessory dwelling which is not the intent of the code.

*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.*

No uses other than those allowed within the district will be allowed with this variance.

*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.*

If granted, the neighborhood conservation standard variances would not alter the essential character of the district as the size of the accessory structure is existing, a limited area of the accessory dwelling faces the street, and the roofing material does not present an unsightly appearance.

*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 finds the plight of the owner of the property for which the variances are sought are due to unique circumstances existing on the property such the historical size of the accessory structure, aging roof and limited street facing area of the accessory dwelling.

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

The alternative to the applicant's request is to conform to the Beacon Hill Area Neighborhood Conservation standards in Section 35-335 of the Unified Development Code.

#### **Staff Recommendation – NCD-5 Standards**

Staff recommends Approval in BOA-25-10300060 based on the following findings of fact:

1. The size of the accessory structure is existing, and a limited portion of the accessory dwelling faces the street and the roofing material does not present an unsightly appearance.
2. The requested variances are in the spirit of the ordinance and meet the intent of the code.