

Case Number:	BOA-23-10300294
Applicant:	Mercedes Hernandez
Owner:	Mercedes Hernandez
Council District:	5
Location:	119 Pleasanton Road
Legal Description:	Lot 14 except northeast tri 8 feet, Block 4, NCB 6566
Zoning:	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District
Case Manager:	Richard Bautista-Vazquez, Planner

Request

A request for 1) a 4'-2" variance from the 5' minimum side setback requirement, as described in Section 35-310.01, to allow an addition to be 10" from the side setback, and 2) an 800 square feet variance from the maximum 800 square feet, as described in Section 35-371, to allow a 1,600 square feet accessory dwelling.

Executive Summary

The subject property is located along Pleasanton Road, on the south side of San Antonio. The applicant constructed an addition without a permit (INV-PBP-23-3100003192). Upon code inspections it was found to be encroaching into the required side setback by 4'- 2" and a Zoning - Property Setback violation was found (INV-ZPS-23-3160001961). Additionally, the constructed accessory dwelling was over the maximum square footage allowance by 800 square feet making it a total of 1,600 square feet.

Code Enforcement History

PMT-Building Without a Permit (INV-PBP-23-3100003192) 09/21/2023
 Zoning - Property Setback (INV-ZPS-23-3160001961) 09/18/2023

Permit History

Plumbing General Permit (MEP-PLM-PMT23-34331021) 10/02/2023
 Minor Building Repair Application (REP-MBR-APP23-35000052) (01/03/2023) for Siding Replacement

Zoning History

The property was part of the original 36 square miles of the City of San Antonio and was originally zoned “J” Commercial District. Ordinance 85133 dated November 7, 1996, rezoned the property to “R-1” Single- Family Residence District. The zoning converted from “R-1” Single Family Residence District to the current “R-6” Residential Single-Family District upon adoption of the 2001 Unified Development Code, established by Ordinance 93881, dated May 3, 2001.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“C-1 AHOD” Light Commercial District Airport Hazard Overlay District	Vacant Lot and Single-Family Residence
South	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
East	“IDZ -3 AHOD” Residential Single-Family Airport Hazard Overlay District	Commercial Building
West	“R-4 AHOD” High Intensity Infill Development Zone Airport Hazard Overlay District	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the South Central San Antonio Community Plan and is designated as “Mixed Use” for future land use. The subject property is located within the St. Leos Neighborhood Association and were notified of the case.

Street Classification

Pleasanton Road is classified as a Secondary Arterial B.

Criteria for Review –Side Setback and Accessory Dwelling Size Variance

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 represented by setback requirements to prevent water runoff and adequate spacing between properties. The applicant is requesting a variance to the side setback an ADU to be 10” from the side property line. This appears to be inadequate spacing and may cause possible water runoff from the side.

Additionally, the applicant has developed an accessory dwelling unit that measures in 1,600 square feet. The size of the ADU is too large and appears to be out of character of the area. This variance request may be contrary to the public interest.

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

Staff does not find any special conditions on the subject property. The side property line is 10” from the accessory dwelling unit. This may cause a hardship on the adjacent property. A literal enforcement of the ordinance would result in the applicant adjusting the location of their addition as well as downsizing the square footage of the accessory dwelling unit.

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 granting of the side setback variance and accessory dwelling unit size limitation will not observe the spirit of the ordinance, as there are no similar designed structures located in the surrounding area.

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 the side setback variance is granted the accessory dwelling unit will be 10” from the neighboring property causing water runoff issues and alter the essential character of the district. The size of the ADU may also alter the essential characteristics of the district as no similar size structures were in the immediate 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.*

Staff finds the plight of the owner of the property for which the variance is sought is not due to unique circumstances existing on the property, such as limited spacing on the property.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Setback Regulations under Section 35-310.01 and Accessory Dwelling Height Limitations of the UDC Section 35-371.

Staff Recommendation – Side Setback Variance and Accessory Dwelling Unit Size Variance

Staff recommends Denial in BOA-23-10300294 based on the following findings of fact:

1. The reduced setbacks will alter the essential character of the district.
2. The addition will be too close to the neighboring property causing possible issues with water runoff.