

Case Number:	BOA-23-10300314
Applicant:	Helen Skeldon
Owner:	Helen Skeldon
Council District:	8
Location:	13634 Pebble Oak Drive
Legal Description:	Lot 3, Block 3, NCB 16997
Zoning:	“R-6 MLOD-1 MLR-2 AHOD” Residential Single-Family Camp Bullis Military Lighting Overlay Military Lighting Region 2 District
Case Manager:	Colton Unden, Planner

### **Request**

A 4'-2" variance from the minimum 5' side setback, as described in Section 35-370, to allow an accessory structure to be 10" from the side setback.

### **Executive Summary**

The subject property is located along Pebble Oak Drive, northeast of Northwest Military Highway. The applicant is requesting a 4'-2" variance from the side setback requirements, as described in Section 35-310.01, to allow a shed as an accessory structure. The property owner had the structure built with no permits and was cited by Code Enforcement. Opposite to the accessory structure, the neighboring structure is approximately 5' from their side setback.

### **Code Enforcement History**

Zoning – Property Setback of Separate Structure (INV-ZPS-23-3160001732)  
Zoning – Property Setback of Separate Structure (INV-ZPS-23-3160001735)  
Low Hanging Limbs (INV-LHL-23-2630001139)

### **Permit History**

The issuance of a building permit is pending the outcome of the Board of Adjustment.

### **Zoning History**

The property was annexed into the City of San Antonio by Ordinance 52044, dated May 7, 1980. The property was rezoned by Ordinance 71991, dated July 26, 1990, from Temporary “R-1” Single-Family Residence District to “R-1” Single-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “R-1” Single-Family Residence District converted to the current “R-6” Residential Single-Family District.

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

Existing Zoning	Existing Use
“R-6 MLOD-1 MLR-2 AHOD” Residential Single-Family Camp Bullis Military Overlay Military Lighting Region 2 District	Single-Family Dwelling

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

Orientation	Existing Zoning District(s)	Existing Use
-------------	-----------------------------	--------------

North	“R-6 MLOD-1 MLR-2 AHOD” Residential Single-Family Camp Bullis Military Overlay Military Lighting Region 2 District	Single-Family Dwelling
South	“R-6 MLOD-1 MLR-2 AHOD” Residential Single-Family Camp Bullis Military Overlay Military Lighting Region 2 District	Single-Family Dwelling
East	“R-6 MLOD-1 MLR-2 AHOD” Residential Single-Family Camp Bullis Military Overlay Military Lighting Region 2 District	Single-Family Dwelling
West	“R-6 MLOD-1 MLR-2 AHOD” Residential Single-Family Camp Bullis Military Overlay Military Lighting Region 2 District	Single-Family Dwelling

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

The subject property is located within the San Antonio International Airport Vicinity Land Use Plan and is designated as “Low Density Residential” in the future land use component of the plan. The subject property is not located within the boundary of a neighborhood association.

### **Street Classification**

Pebble Oak Drive is classified as a local road.

### **Criteria for Review – Side Setback 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 is represented by the setback requirements to prevent water runoff and adequate spacing between properties. The applicant is requesting a variance to the side setback to allow a shed to be 10” from the side property line. If granted, the request will be contrary to the public interest by leaving inadequate spacing and may cause possible water runoff from the side.

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

Staff found no other special conditions on the subject property. The side property line is 10” from the accessory structure, which may cause a hardship on the adjacent property. A literal enforcement of the ordinance would not result in an unnecessary hardship for the property owner, as the accessory structure could be located elsewhere in conformity with setbacks.

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 will not observe the spirit of the ordinance, as adjacent properties in the area are conforming with setback regulations.

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 accessory structure will be 10” from the neighboring property line causing water runoff issues. Upon site visits, staff observed the sloped roof of the shed and proximity to the property line made it to where water run off could infringe on the neighboring property.

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. The accessory structure could be in conformance with setback regulations if located elsewhere or reduced in size.

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

The alternative to the applicant's request is to conform to the setback standards of the UDC Section 35-370.

#### **Staff Recommendation – Side Setback Variance**

Staff recommends Denial in BOA-23-10300314 based on the following findings of fact:

1. The distance does not provide adequate spacing between properties causing possible issues with water runoff, and
2. The reduced setbacks will alter the essential character of the district.