



City of San Antonio

Agenda Memorandum

Agenda Date: October 7, 2024

In Control: Board of Adjustment Meeting

DEPARTMENT: Development Services Department

DEPARTMENT HEAD: Amin Tohmaz, Interim Department Head

CASE NUMBER: BOA-24-10300176

APPLICANT: Elvia Ortega

OWNER: Elvia Ortega

COUNCIL DISTRICT IMPACTED: District 2

LOCATION: 4839 Castle Pine Street

LEGAL DESCRIPTION: Lot 91, Block 18, NCB 17733

ZONING: "R-6 MLOD-3 MLR-2 AHOD" Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

CASE MANAGER: Colton Unden, Planner

A request for

1) A 3'-6" variance from the minimum 5' side setback to allow a 1'-6" side setback for an accessory structure.

Section 35-370(b)(1)

2) A 3'-6" variance from the minimum 5' rear setback to allow a 1'-6" rear setback for an accessory structure.

Section 35-370(b)(1)

Executive Summary

The subject property is located along Castle Pine, north of Rittiman Road, located within the East Village Neighborhood Association. The applicant had an existing shed and built an additional similar shed and connected them via a roof without a permit. The shed is approximately 2'-6" from

the side and rear with approximately 1' overhang, leaving approximately 1'-6" to the property line. The abutting lot to the rear has a 16' utility easement against the rear property line. The Board of Adjustment approved the neighboring accessory structure for a 2'-6" variance to the side setback, and a 4'-6' variance to the rear setback on July 1st of this year (BOA-24-10300110 - 4835 Castle Pine).

Code Enforcement History

INV-PBP-24-3100004176 – PMT-Building Without a Permit – Pending Resolution
INV-PBP-24-3100004177 – PMT-Building Without a Permit – Pending Resolution
INV-PBP-24-3100004178 – PMT-Building Without a Permit – Pending Resolution
INV-ZPS-24-3160002150 – Zoning – Property Setback – Pending Resolution

Permit History

Building permit is pending outcome from the Board of Adjustment.

Zoning History

The subject property was annexed into the City of San Antonio by Ordinance 64023, dated December 28, 1986, and was originally zoned "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

"R-6 MLOD-3 MLR-2 AHOD" Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

Existing Use

Single-Family Dwelling

Surrounding Property Zoning/ Land Use

North

Existing Zoning

"R-6 MLOD-3 MLR-2 AHOD" Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

Existing Use

Single-Family Dwelling

South

Existing Zoning

"R-6 MLOD-3 MLR-2 AHOD" Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

Existing Use

Single-Family Dwelling

East

Existing Zoning

"R-6 MLOD-3 MLR-2 AHOD" Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

Existing Use

Single-Family Dwelling

West

Existing Zoning

"R-6 MLOD-3 MLR-2 AHOD" Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

Existing Use

Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is not located within any future land use plans. The subject property is located within the East Village Neighborhood Association, and they have been notified of this request.

Street Classification

Castle Pine Street is classified as a Local Street.

Criteria for Review – Side and Rear Setback for an Accessory Structure Variances

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 side setback variance for an accessory structure is contrary to the public interest as the structure will not have enough space from the property line and structure located on abutting lot. The current side setback will impact the welfare of the abutting property by creating fire safety and water runoff issues.

The rear setback variance for an accessory structure is not contrary to the public interest as the abutting rear property possesses a 16' utility easement against the rear property line. The abutting easement significantly reduces any fire safety and water runoff issues.

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

A literal enforcement of the side setback accessory structure ordinances would not result in unnecessary hardship as significant space exists on the rear yard to accommodate an accessory structure with a proper side setback.

A literal enforcement of the rear setback accessory structure ordinances would result in unnecessary hardship as the back yard green space would be reduced.

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

The requested side setback variance does not appear to be in the spirit of the ordinance as adequate space is eliminated and will create unnecessary hardships to the abutting lots.

The requested rear setback variance appears to be in the spirit of the ordinance as the abutting rear lot has a significant easement against the abutting the rear property line.

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.

Staff finds that the side setback variance for the accessory structure would substantially injure the appropriate use of adjacent properties as fire safety and water runoff concerns would arise.

Staff finds that the rear setback variance for the accessory structure would not substantially injure the appropriate use of adjacent properties additional space is created with the abutting easement.

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.

For the side setback variance, staff finds no unique circumstances existing on the property the prevents the compliance with the required setback.

For the rear setback variance, staff finds the unique circumstances existing on the property the limited space between the principal structure and the accessory structure.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the accessory structure setback requirements of the UDC Section 35-370(b)(1).

Staff Recommendation – Side Setback for an Accessory Structure Variances

Staff recommends Denial in BOA-24-10300176 based on the following findings of fact:

1. The current side setback will impact the welfare of the abutting property by creating fire safety and water runoff issues.
2. Adequate space is eliminated and will create unnecessary hardships to the abutting lots.

Staff Recommendation –Rear Setback for an Accessory Structure Variances

Staff recommends Approval in BOA-24-10300176 based on the following findings of fact:

1. The abutting rear property possesses a 16' utility easement against the rear property line.
2. The limited space between the principal structure and the accessory structure