

Case Number:	BOA-22-10300143
Applicant:	Philip Levin
Owner:	Levin Philip & Sheila
Council District:	3
Location:	215 Kipling Avenue
Legal Description:	Lot 9, Block 2, NCB 9567
Zoning:	"R-4 AHOD" Residential Single-Family Airport Hazard Over District
Case Manager:	Richard Bautista-Vazquez, Planner

Request

A request for a 3' variance with a 1' overhang from the 5' minimum, as described in Section 35-310.10, side setback to allow a structure to be 2' from the side property line.

Executive Summary

The applicant is proposing to remodel an existing garage into an accessory dwelling unit. The proposed ADU is not expanding the floor footprint. The proposed accessory dwelling unit is visible from the right of way. Upon staff site visit, there were other structures in the rear yards of the neighboring properties.

Code Enforcement History

There is no Code Enforcement History on file

Permit History

A variety of permits have been issues on for this property.

Building permits are pending the outcome of the BOA Meeting.

Zoning History

The subject property was located within the Original City Limits of San Antonio and was zoned "B" Residential District. Upon adoption of the 2001 Unified Development Code, the zoning converted to the current "R-4" Residential Single Family District, established by Ordinance 93881, dated May 3, 2001.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-4 AHOD" Residential Single-Family Airport Hazard Over District	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-6 AHOD" Residential Single-Family Airport Hazard Over District	Single-Family Dwelling
South	"R-4 AHOD" Residential Single-Family Airport Hazard Over District	Single-Family Dwelling

East	"R-4 AHOD" Residential Single-Family Airport Hazard Over District	Single-Family Dwelling
West	"R-4 AHOD" Residential Single-Family Airport Hazard Over District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Brooks Area Regional Center and is designated "Low Density Residential" in the future land use component of the plan. The subject property is located within the Highland Hills and Highland Park Neighborhood Association and they were notified of the case.

Street Classification

Kipling is classified as a local road.

Criteria for Review - 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 requested variance is not contrary to the public interest as there are other similar structures in the rear yards with similar setbacks.

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

This would result in the applicant having to conform to the minimum 5' side setback requirements which would result in an unnecessary hardship.

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

The variance for rear structure will not adversely affect surrounding properties in the immediate 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.*

The applicants requested variance is likely to not negatively affect the adjacent 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.*

The variances is sought is due to unique circumstances existing on the property such as the size and location of the lot. The variance request is not merely financial.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Setbacks per 35-310.10.

Staff Recommendation – Side Setback Variance

Staff recommends **Approval** in **BOA-22-10300143** based on the following findings of fact:

1. The proposed addition is in the rear yard of the property and not easily seen from the right of way; and
2. There does not appear to be issues for water runoff; and
3. The structure will not negatively affect neighboring properties.