

Case Number:	BOA-23-10300092
Applicant:	Elaine Sander
Owner:	Hilary E & Elaine D Sanders
Council District:	8
Location:	4219 Shadow Elms Woods
Legal Description:	Lot 5, Block 56, NCB 18606
Zoning:	“R-6 MLOD-1 MLR-1 AHOD ERZD” Residential Single-Family Camp Bullis Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay Edwards Recharge Zone District
Case Manager:	Joseph Leos, Planner

Request

A request for a 3'-9" variance from the minimum 5' side setback requirement, as described in Section 35-370(b)(1), to allow an accessory structure with overhang to be 1'-3" from the side property line.

Executive Summary

The subject property is located on Shadow Elm Woods, northwest of the intersection of DeZavala Road and Lockhill Selma Road. Resulting from a Zoning UDC Investigation (INV-ZPS-23-3160000772) for a property setback violation, the applicant is seeking a variance for the side setback. The applicant constructed an accessory structure with overhang in the rear yard, measuring 1'-3" from the side property line. Accessory structures constructed in San Antonio are required to maintain 5' from the side property line and must obtain a variance to deviate from this minimum requirement. Upon site visits, staff observed a 24' paved alleyway abutting the rear property line, resulting in the applicant not requiring a variance for the rear setback.

Code Enforcement History

Zoning UDC Investigation- Property Setback Violation (INV-ZPS-23-3160000772)- March 2022

Permit History

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

Zoning History

The subject property was annexed into the City of San Antonio by Ordinance 66021, dated December 30, 1987, and originally zoned Temporary “R-1” Single-Family Residence District. The property rezoned under Ordinance 67062, dated May 5, 1988, 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-1 AHOD ERZD” Residential Single-Family Camp Bullis Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay Edwards Recharge Zone District	Single-Family Residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 MLOD-1 MLR-1 AHOD ERZD” Residential Single-Family Camp Bullis Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay Edwards Recharge Zone District	Single-Family Residence
South	“R-6 MLOD-1 MLR-1 AHOD ERZD” Residential Single-Family Camp Bullis Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay Edwards Recharge Zone District	Single-Family Residence
East	“R-6 MLOD-1 MLR-1 AHOD ERZD” Residential Single-Family Camp Bullis Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay Edwards Recharge Zone District	Single-Family Residence
West	“R-6 MLOD-1 MLR-1 AHOD ERZD” Residential Single-Family Camp Bullis Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay Edwards Recharge Zone District	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the UTSA Area Regional Center Plan and is designated as “Low Density Residential” in the future land use component of the plan. The subject property is located within the boundary of The Woods of Shavano Neighborhood Association, and they have been notified of the request.

Street Classification

Shadow Elm Woods 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 restricted setbacks to provide spacing between property line and structures. The applicant is requesting a variance to the side setback to allow an accessory structure to be 1’-3” from the side property line. Staff finds this distance is not suitable, as it imposes on the public interest of the adjacent neighbor by being too close to the shared property line, water runoff may impose, and risk of fire spread is greater.

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

Staff found no special conditions on the subject property that warrant the need for the accessory structure to have a 1'-3" side setback. The request provides no room for side yard maintenance without trespass, nor allows for storm water mitigation or fire spread prevention. No unnecessary hardship seems to be presented in this case, as the applicant could relocate the accessory 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. In this case, the intention is for sufficient spacing between structure and property line. The accessory structure will be 1'-3" from the side property line, which does not observe the spirit of the ordinance or intent of the code as it will be too close to the shared property line and neighboring structure.

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 structure will maintain 1' 3" from the side property line, which is likely to injure the appropriate use of the adjacent conforming property, as staff did not observe the adjacent neighbor with the shared property line violating setback violations.

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 found no unique circumstances on the subject property that would warrant the need for a reduced side setback. Additionally, if the applicant had obtained permits for the accessory structure, the setback dialogue would have been communicated thoroughly.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Accessory Use and Structure Regulations of the UDC Section 35-370 (b)(1).

Staff Recommendation – Side Setback Variance

Staff recommends Denial in BOA-23-10300092 based on the following findings of fact:

1. This distance is not suitable, as it imposes on the public interest of the adjacent neighbor by being too close to the shared property line, water runoff may impose, and risk of fire spread is greater; and
2. The applicant could relocate the structure.