

Case Number:	BOA-23-10300126
Applicant:	Stephen Urias
Owner:	Stephen Urias
Council District:	2
Location:	343 Carnahan Street
Legal Description:	Lot 25, NCB 6561
Zoning:	"R-4 NCD-6 MLOD-3 MLR-2" Residential Single-Family Mahncke Park Neighborhood Conservation Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 District
Case Manager:	Mirko Maravi, Principal Planner

### **Request**

A request for a 4'-11" variance from the minimum 5' side setback, as described in Sec. 35-370(b)(1), to allow an accessory structure with a 1" side setback.

### **Executive Summary**

The property is located just west of the San Antonio Country Club Golf Course in the Mahncke Park Neighborhood Conservation District. The applicant started the construction of an accessory structure that is within the required 5' side setback on the eastern property side. There is an alley located in the rear of the property which eliminates the requirement of a rear setback for an accessory structure.

### **Code Enforcement History**

Zoning UDC Investigation INV-ZPS-23-3160000425)- May 2023

### **Permit History**

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

### **Zoning History**

The subject property was part of the original 36 square miles of the City of San Antonio and originally zoned "B" Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned "B" Residence District converted to the current "R-4" Residential Single-Family District.

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

Existing Zoning	Existing Use
"R-4 NCD-6 MLOD-3 MLR-2" Residential Single-Family Mahncke Park Neighborhood Conservation Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 District	Single-Family Residence

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

Orientation	Existing Zoning District(s)	Existing Use
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North	“R-4 NCD-6 MLOD-3 MLR-2” Residential Single-Family Mahncke Park Neighborhood Conservation Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 District	Single-Family Residence
South	“R-4 NCD-6 MLOD-3 MLR-2” Residential Single-Family Mahncke Park Neighborhood Conservation Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 District	Single-Family Residence
East	“R-4 NCD-6 MLOD-3 MLR-2” Residential Single-Family Mahncke Park Neighborhood Conservation Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 District	Single-Family Residence
West	“R-4 NCD-6 MLOD-3 MLR-2” Residential Single-Family Mahncke Park Neighborhood Conservation Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 District	Single-Family Residence

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

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

### **Street Classification**

Carnahan Street 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 side setback to provide spacing between the property line and the accessory structure. The applicant is requesting a variance to the side setback to allow an accessory structure to be 1” 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 be imposed, and the 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” side setback. No unnecessary hardship seems to be present 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 the accessory structure and the property line. The accessory structure will be 1" 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.

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" from the side property line, which is likely to injure the appropriate use of the adjacent conforming property, as staff did not observe any neighboring properties with shared property line violation within setbacks.

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 Structure Regulations side and rear setback of the UDC Section 35-370(b)(1).

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

Staff recommends Denial in BOA-23-10300126 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 be imposed, and risk of fire spread is greater; and
2. The applicant could relocate the structure.