

Case Number:	BOA-21-10300114
Applicant:	Keith Wideman
Owner:	Keith Wideman
Council District:	7
Location:	1713 West Mulberry Avenue
Legal Description:	Lot 4, Block 24, NCB 1946
Zoning:	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District
Case Manager:	Roland Arsate, Planner

### **Request**

A request for 1) a 3’ 11” variance from the minimum 5’ side setback requirement, as described in Section 35-510, to allow an addition to be 1’ 1” away from the western side property line and 2) a 2’ 10” variance from the minimum 5’ side setback requirement, as described in Section 35-371, to allow a detached accessory structure to be 2’ 2” away from eastern side property line.

### **Executive Summary**

The subject property is located along West Mulberry Avenue near North Zarzamora Avenue. The subject property currently has a single-family residence constructed on the property and is zoned “R-6” which requires a 5’ side setback. The applicant is proposing to build a room addition in the rear of the property and is requesting a variance to the side property line in order to better-accommodate the new construction. Upon staff’s site visit, it was observed that there was a detached accessory structure that was 2’ 2” away from the right side property line.

### **Code Enforcement History**

There are no relevant Code Enforcement violations pending.

### **Permit History**

04/29/2021 Minor repairs application for structure.

### **Zoning History**

The subject property is located within the Original 1938 City Limits of San Antonio and was zoned Temporary “R-1” Single-Family Residence District. Upon adoption of the 2001 Unified Development Code, the zoning converted from “R-1” to the current “R-6” Residential Single-Family District, established by Ordinance 93881 dated May 3, 2001.

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

Existing Zoning	Existing Use
“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence

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

Orientation	Existing Zoning District(s)	Existing Use
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North	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
South	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
East	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
West	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence

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

The subject property is in the Near Northwest Plan and is designated “Medium Density Residential” in the future land use component of the plan. The subject property is located within the Jefferson/Woodlawn Lake Neighborhood Association and were notified of the case.

### **Street Classification**

West Mulberry is classified as a local road.

### **Criteria for Review – Side Setback 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 public interest is defined as the general health, safety, and welfare of the public. The applicant is requesting a variance to the side setback in order to allow a room addition added to the rear of an existing structure. The variance appears to be contrary to the public interest.

**The applicant is also requesting a variance to the side setback to allow a detached accessory structure to be 2’ 2” from the side property line. Staff does not find the request to be contrary to the public interest due to the structure having no overhang and no openings.**

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

A literal enforcement of the ordinance would result in the applicant building five feet from the side property line which would not be in line with the existing structure. Staff is recommending that the addition be built 3’ from the side property line to provide more space in the side yard.

**The detached accessory structure could potentially be 3’ from the side property line since there is no overhang and is fire-rated. A literal enforcement would require moving the structure 10” away from its current position.**

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 room addition will be 1 foot 1 inch away from the side property line which is in line with the existing structure but does not observe the spirit of the ordinance.

**The detached accessory structure is 2 feet 2 inches away from side property line and is fire rated, which observes the spirit of the ordinance. There are similar non-conforming structures in the surrounding 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.*

**If the alternate recommendation were granted, the room addition will maintain 3' from the side property line and the detached structure will maintain 2 feet 2 inches from the side property line, which is not likely to alter the essential character of the district.**

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 due to unique circumstances existing on the property. The existing structure is built close to the lot line which matches most existing houses in the local area and the variances will accommodate a larger living area and to allow a detached accessory structure. The circumstances were not created by the owner and are not merely financial.**

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

The alternative to the applicant's request is to conform to the Lot and Building Dimensions of the UDC Sections 35-310.01.

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

Staff recommends Denial in BOA-21-10300114 with an Alternate Recommendation for a 2' variance to allow an addition to be 3' away from the side property line based on the following findings of fact:

1. The room addition will be 3' away from the property line; and
2. This addition will not harm any neighboring properties or effect value; and
3. There does not appear to be any issues with water run-off due to maintaining 3' from the side property line.

### **Staff Recommendation – Side Setback Variance for Detached Accessory Structure**

Staff recommends **Approval** in **BOA-21-10300114** based on the following findings of fact:

1. The detached accessory structure is 2 feet 2 inches away from property line; and
2. The detached structure is already fire rated in that there are no openings and no roof overhang; and
3. This structure is similar to other detached structures in local area.