

Case Number:	BOA-22-10300028
Applicant:	Lauren Snider
Owner:	Marie and Micah Harper
Council District:	5
Location:	326 Clay Street
Legal Description:	Lot 11, Block 1, NCB 15
Zoning:	“MF-18 IDZ AHOD” Limited Density Multi-Family Infill Development Zone Airport Hazard Overlay District
Case Manager:	Richard Bautista-Vazquez, Planner

Request

A request for a 4' 11" variance from the minimum 5' side setback requirement, as described in Section 35-310, to allow a detached structure with gutters to be 1" from the side property line.

Executive Summary

The applicant is proposing to construct a detached accessory structure that encroaches into the side setback. This property had a rezoning case in which City Council adopted Ordinance 2015-02-19-0133. There are currently townhomes on the property which serve as condominiums. The minimum side setback requirement is 5', and the applicant is proposing to encroach into the setback by 4' 11" with the plan of gutters being installed on the detached structure to reduce water runoff onto adjacent properties.

Code Enforcement History

There is no Code Enforcement history on file.

Permit History

No permits have been issued. The building permit is 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 “L” First Manufacturing District. Upon adoption of the 2001 Unified Development Code, the zoning converted to “I-2” Heavy Industrial District, established by Ordinance 93881, dated May 3, 2001. In a 2006 large-area rezoning case, the property was rezoned to “RM-6” Residential Mixed District and “MF-25 IDZ” Low Density Multi-Family Infill Development Zone. Ordinance 2015-02-19-0133 rezoned the property to “MF-18 IDZ” Limited Density Multi-Family Infill Development Zone District

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“MF-18 IDZ” Limited Density Multi-Family Infill Development Zone District	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“RM-6” Residential Mixed District and “IDZ AHOD” Infill Development Zone Airport Hazard Overlay District	Single-Family Dwellings
South	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District and “I-2 AHOD” Heavy Industrial Airport Hazard Overlay District	Single-Family Dwelling Vacant Lot
East	“MF-25 AHOD” Low Density Multi-Family Airport Hazard Overlay District	Apartments
West	“IDZ AHOD” Infill Development Zone Airport Hazard Overlay District	Single-Family Dwellings

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Downtown Area Regional Center Plan and is designated “Medium Density Residential” in the future land use component of the plan. The subject property is located within the Lone Star Neighborhood Association, and they were notified of the case.

Street Classification

Clay Street 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 public interest is defined as the general health, safety, and welfare of the public. The requested variance to be 1” away is contrary to the public interest. Staff finds a 2’ variance will not be contrary to the public interest.

- 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 having to postpone the development of the accessory structure or would reduce the size the structure can be.

There is not much room for a structure, so a 2’ variance to allow the structure to be 3’ from the side property line would alleviate the hardship on the property.

- 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. A 4' 11" side minimum setback variance to allow a detached structure to be 1" from the side property line will no observe the spirit of the ordinance

The variance for the accessory structure will possibly allow for protection of the objects that will be placed under the structure and a 3' setback appears to better observe the spirit of the ordinance.

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 the request for a 4' 11" side setback variance to allow a detached structure to be 1" from the side property line may negatively affect the adjacent neighboring property.

An alternate recommendation that does not appear to injure appropriate conforming properties would be a 2' variance to allow the structure to be 3' from the property line.

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 such as the small amount of available space.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Setbacks per 35-310 and the accessory structure regulations in 35-370 in the UDC Code.

Staff Recommendation – Side Setback Variance

Staff recommends Denial **with an Alternate Recommendation for a 2' variance to allow a detached structure with gutters to be 3' away from the side property line in BOA-22-10300028** based on the following findings of fact:

1. The structure being 1" away from the property line may negatively affect neighboring properties; and
2. A 3' setback would allow for more space between the structure and the property line and will observe the spirit of the ordinance.