

Case Number:	BOA-22-10300095
Applicant:	Araseli B Perez
Owner:	Atanacio C III & Araseli Perez
Council District:	6
Location:	7903 Deepwell Drive
Legal Description:	Lot 15, Block 162, NCB 18296
Zoning:	"R-5" Residential Single Family District
Case Manager:	Richard Bautista-Vazquez, Planner

Request

A request for a 2' variance from the 5' minimum side and rear setback requirement, as described in Section 35-370, to allow structure with overhang and gutters to be 3' from the side and rear property lines.

Executive Summary

The subject property is located on the corner of Deepwell Drive and Cedarcreek Trail. The applicant constructed an accessory structure that encroaches into the side setback by 2'. Upon site visit staff did not find any other similar structures in the neighborhood. With the subject property being located on a corner lot, the structure does not appear to alter the look of the character or negatively affect the right of way adjacent to the property.

Code Enforcement History

A Permit Investigation was Created On 04/04/2022 for Building Without A Permit.

Permit History

Various Residential Permits have been issued for the property.

Zoning History

The subject property was annexed into the City Limits of San Antonio by Ordinance 64026 and was zoned Temporary "R-1" Single-Family Residence District. Ordinance 100406 dated February 10, 2005 rezoned the property to the current "R-5" Single Family Residential District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-5" Residential Single Family District	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-5" Residential Single Family District	Single-Family Dwelling
South	"R-5" Residential Single Family District	Single-Family Dwelling
East	"R-5" Residential Single Family District	Single-Family Dwelling
West	"R-5" Residential Single Family District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the West Sector Plan and is designated Suburban Tier in the future land use component of the plan. There is no registered neighborhood association in the area.

Street Classification

Deepwell Drive 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 applicant is requesting a 2' variance to allow an accessory structure to be 3' from the side and rear property lines. With the property being located on a corner lot and the structure requiring gutters, the request does not appear 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 possibly demolish the structure to meet the 5' side setback requirement. This presents an unnecessary hardship as there is limited space in the rear yard.

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 variance will observe the spirit of the ordinance as accessory structures are permitted to be 3' from the side and rear property lines so long as there is no projecting architectural features. With the overhang and gutters on the structure, a variance is required. The structure does not appear to 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.*

Staff finds the variance request to allow a structure to be 3' from the property line is not likely to negatively affect the adjacent neighboring property as the structure neighbors a local street.

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 Accessory Structure Setback Requirement per 35-370 or to trim back the overhang and gutters to remove the projecting architectural features to allow a 3' setback.

Staff Recommendation – Side and Rear Setback Variance

Staff recommends **Approval** in **BOA-22-10300095** based on the following findings of fact:

1. There are gutters located on the accessory structure so there does not appear to be issues with water runoff; and
2. The subject property is located on a corner lot and there are not any adjacent structures in close proximity to the structure seeking the variance.