

Case Number:	BOA-21-10300132
Applicant:	Lorenzo Herrera
Owner:	Lorenzo Herrera
Council District:	3
Location:	2415 Ravina Drive
Legal Description:	Lot 16, Block 7, NCB 12903
Zoning:	"NP-8 MLOD-3 MLR-1" Neighborhood Preservation Martindale Army Air Field Military Lighting Overlay Military Lighting Region-1 District
Case Manager:	Kayla Leal, Principal Planner

### **Request**

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

### **Executive Summary**

The subject property is located along Ravina Drive near Rigsby Avenue. The applicant constructed an accessory structure in the rear yard without pulling building permits. Accessory structures are required to be setback 5' from side and rear property lines, and the existing structure is currently 1' 9" away from the side property line. There is a swimming pool in the rear yard, which the accessory structure is providing shade for.

### **Code Enforcement History**

An investigation was opened on March 15, 2021 for Building Without A Permit.

### **Permit History**

There are no relevant permits pulled for the subject property.

### **Zoning History**

The subject property was annexed into the City of San Antonio by Ordinance 25568, dated September 18, 1957, and originally zoned "A" Single-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned "A" Single-Family Residence District converted to "R-5" Residential Single-Family District. The property rezoned under Ordinance 2015-05-21-0448, dated May 21, 2015, from "R-5" Residential Single-Family District to the current "NP-8" Neighborhood Preservation District.

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

Existing Zoning	Existing Use
"NP-8 MLOD-3 MLR-1" Neighborhood Preservation Martindale Army Air Field Military Lighting Overlay Military Lighting Region-1 District	Single-Family Residence

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

Orientation	Existing Zoning District(s)	Existing Use
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North	"C-2 CD MLOD-3 MLR-1" Commercial Martindale Army Air Field Military Lighting Overlay Military Lighting Region-1 District	Single-Family Residence and Auto Shop
South	"NP-8 MLOD-3 MLR-1" Neighborhood Preservation Martindale Army Air Field Military Lighting Overlay Military Lighting Region-1 District	Single-Family Residence
East	"C-2NA CD MLOD-3 MLR-1" Commercial Non-Alcoholic Sales Martindale Army Air Field Military Lighting Overlay Military Lighting Region-1 District	Vacant Commercial
West	"C-2 MLOD-3 MLR-1" Commercial Martindale Army Air Field Military Lighting Overlay Military Lighting Region-1 District	Mechanic and Vacant Commercial

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

The subject property is in the Eastern Triangle Community Plan and is designated “Low Density Residential” in the future land use component of the plan. The subject property is located within the boundary of the Jupe Manor Neighborhood Association and they have been notified of the request.

### **Street Classification**

Ravina Drive 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. The applicant is requesting a variance to the side setback in order to allow an accessory structure to be 1’ 9” from the side property line. There is currently 1’ of overhang which is contrary to the public interest.

**Staff finds a 2’ variance from the side setback requirement with no overhang is not 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 building the accessory structure five feet from the side property line, which results in unnecessary hardship as the pool is placed right at 5’.

**Staff finds an unnecessary hardship can be avoided by relocating the structure 3’ from the side property line and removing all overhang.**

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 accessory structure is currently 1' 9" from the side property line, which does not observe the spirit of the ordinance.

**The spirit of the ordinance will be observed with a 3' side setback since it will allow adequate space from the adjacent 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' 9" from the side property line, which is likely to alter the essential character of the district.

**A 3' side setback for the accessory structure does not appear to alter the essential character of the district nor will it injure adjacent properties.**

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 circumstances do not appear to be merely financial.**

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

The alternative to the applicant's request is to conform to the Accessory Structure Regulations of the UDC Section 35-370.

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

Staff recommends Denial **with an Alternate Recommendation of a 2' variance to allow an accessory structure to be 3' from the side property line in BOA-21-10300132** based on the following findings of fact:

1. The structure is currently 1' 9" from the side property line; and
2. The accessory structure shall be relocated to be 3' from the side property line with no overhang to observe the spirit of the ordinance.