

Case Number:	BOA-21-10300154
Applicant:	Paul El-Bayeh
Owner:	Paul El-Bayeh
Council District:	8
Location:	9318 Oakland Road
Legal Description:	Lot 3, Block 3, NCB 14703
Zoning:	“RE” Residential Estate District
Case Manager:	Kayla Leal, Principal Planner

**Request**

A request for 1) variance from the Accessory Structure Standards, as described in Section 35-370(b), to allow an accessory structure in the front yard, and 2) a 5’ variance from the 15’ minimum front setback, as described in Section 35-310, to allow an accessory structure to be 10’ from the front property line.

**Executive Summary**

The subject property is located along Oakland Road and there is single-family residence on the property. The applicant has partially constructed an accessory structure in the front yard of the property. Section 35-370(b)(6) states that accessory structures shall only be permitted within the side or rear yard area.

**Code Enforcement History**

A Permit Investigation for Building Without a Permit was opened on August 5, 2021 and no violation was found.

A Zoning Investigation was opened on September 13, 2021. It is still pending resolution.

**Permit History**

A residential building permit was pulled for the structure in January of 2020.

**Zoning History**

The subject property was annexed into the City of San Antonio by Ordinance 41426, dated December 25, 1972, and originally zoned Temporary “R-1” Single-Family Residence District. The property was rezoned by Ordinance 89402, dated March 11, 1999, from Temporary “R-1” Single-Family Residence District to “R-8” Large Lot Residence District. Upon adoption of the 2001 Unified Development Code, established by Ordinance 93881, dated May 3, 2001, the property zoned to “R-8” Large Lot Residence District converted to “R-20” Residential Single-Family District. The property was rezoned by Ordinance 2007-04-19-0471, dated April 19, 2007, from “R-20” Residential Single-Family District to the current “RE” Residential Estate District.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“RE” Residential Estate District	Single-Family Residence

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“RE” Residential Estate District	Single-Family Residence

South	“RE” Residential Estate District	Single-Family Residence
East	“RE” Residential Estate District	Single-Family Residence
West	“RE” Residential Estate District	Single-Family Residence

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Oakland Estates Community Plan and is designated “Low Density Residential” in the future land use component of the plan. The subject property is located within the Oakland Estates Neighborhood Association, and they were notified of the request.

**Street Classification**

Oakland Road is classified as a Local Road.

**Criteria for Review –Variance for Accessory Structure**

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 allow an accessory structure within the front yard of the subject property. The proposed structure is not contrary to the public interest, however there is adequate space on the property for the structure to be relocated.

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 relocating the structure to the side or rear yard of 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. The applicant is proposing to keep the structure where it is currently being constructed, which is toward the front of the property.

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.*

The proposed structure does not cause any concern and does not appear to substantially injure uses of adjacent conforming properties. The structure does appear 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 not sought is due to unique circumstances existing on the property. 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 side setbacks for accessory structures per the UDC Sections 35-370.

**Staff Recommendation – Accessory Structure Variance**

Staff recommends Denial in BOA-21-10300154 based on the following findings of fact:

1. The detached accessory structure is located within the front yard of the property.