

Case Number:	BOA-21-10300187
Applicant:	Neighborhood Housing Services of San Antonio
Owner:	Neighborhood Housing Services of San Antonio
Council District:	3
Location:	863 Steves Avenue
Legal Description:	North 137.5' of Lot 112, Block 2, NCB 2977 112
Zoning:	"R-4 CD AHOD" Residential Single-Family Airport Hazard Overlay District with Conditional Use for Three Dwelling Units
Case Manager:	Richard Bautista-Vazquez, Planner

**Request**

A request for a 2' 8" variance from the 5' side setback requirement, as described in Section 35-310, to allow a dwelling unit with 1' overhang to be 2' 4" from the side property line.

**Executive Summary**

The subject property is located along Steves Avenue. The applicant seeks a variance to carry out and complete the rehabilitation project of an existing detached garage at 863 Steves Avenue and convert it into a 1 bedroom/1 bath dwelling unit. Because the structure is existing and the applicant is required to pull permits to renovate the structure, the requirement to meet the setbacks is triggered. Upon the site visit conducted by staff, the setback of the existing structure measured to be 2' 4" to be from the property line and had 1' of overhang. Staff did not observe any abnormal physical features such as a slope on the property.

**Code Enforcement History**

There is no relevant Code Enforcement History on file.

**Permit History**

A Short-Term Rental (STR) Permit was issued on February 7, 2019.

**Zoning History**

The property was part of the original 36 square miles of City of San Antonio and zoned "B" Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property converted to the current "R-4" Residential Single-Family District. The zoning changed to the current "R-4 CD" Residential Single-Family Airport Hazard Overlay District with Conditional Use for Three Dwelling Units on December 2, 2021, established by Ordinance 2021-12-02-0934.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
"R-4 CD AHOD" Residential Single-Family Airport Hazard Overlay District with Conditional Use for Three Dwelling Units	Two Dwelling Units and a Detached Garage

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
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North	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
South	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
East	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
West	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District and “O-2 AHOD” High-Rise Office Airport Hazard Overlay District	Single-Family Residence and Offices

**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 boundary of the Roosevelt Park Homeowner’s Association, and they have been notified of the request.

**Street Classification**

Steves Avenue is classified as a Minor Arterial Street.

**Criteria for Review – Variances**

According to Section 35-482(h) of the UDC, in order for a special exception to be granted, the Board of Adjustment must find that the request meets each of the five following conditions:

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 for a 2’ 8” variance from the 5’ side setback requirement to allow a dwelling unit with 1’ overhang to be 2’ 4” from the side property line in order to convert a detached garage into a third dwelling unit for the property. The variance does not appear to be contrary to the public interest as the structure is already existing.**

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 not being able to convert the dwelling unit in its current location and relocating it to meet the 5’ side setback, which results in unnecessary hardship.**

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 requested variance from the side setback will observe the spirit of the ordinance and substantial justice will be done.**

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 variance from the side setback requirement is enough space away from the adjacent property line and is not likely to negatively affect the adjacent conforming property nor will it 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 and is not merely financial in nature.**

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

The alternative to the applicant's request is to conform to the UDC Section 35-310.

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

Staff recommends **Approval** in **BOA-21-10300187** based on the following findings of fact:

1. The structure is currently existing and will be converted into a detached dwelling unit; and
2. The conversion of the structure will require plans to be submitted and reviewed to ensure it is constructed to building code; and
3. The proposed site plan was recently approved by City Council during the rezoning process.