



City of San Antonio

Legislation Details (With Text)

File #: 18-3234

Type: Zoning Case

In control: Board of Adjustment

On agenda: 5/7/2018

Title: A-18-077: A request by Brown & Ortiz, PC for a 15' variance from the 20' rear setback to allow a new home to be constructed as close to 5' from the rear property line, located at 7010 Bella Rose. Staff recommends Approval. (Council District 8)

Sponsors:

Indexes:

Code sections:

Attachments: 1. A-18-077 Attachments

Date	Ver.	Action By	Action	Result
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Case Number: A-18-077

Applicant: Brown & Ortiz, PC

Owner: Galleria Custom Homes, LLC

Council District: 8

Location: 7010 Bella Rose

Legal: Lot 31, Block 24, NCB 18333

Description:

Zoning: "R-6 MLOD-1" Residential Single-Family Camp Bullis
Military Lighting Overlay District

Case Manager: Debora Gonzalez, Senior Planner

Request

A request for a 15' variance from the 20' rear setback, as described in Section 35-310.01, to allow a new home to be constructed as close to 5' from the rear property line.

Executive Summary

The property owner is requesting a variance for the rear setback to be reduced by 15 feet to construct a new house. The unique lot shape and the layout of the new construction have caused the subject property to have two rear property lines, with one of them abutting the side of the adjacent property and bordering a cul-de-sac development. Only one corner of the proposed dwelling is five feet away from the lot line.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
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“R-6 MLOD-1” Residential Single-Family Camp Bullis Military Lighting Overlay District	Single-Family Dwelling
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Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 MLOD-1” Residential Single-Family Camp Bullis Military Lighting Overlay District	Vacant
South	“R-6 MLOD-1” Residential Single-Family Camp Bullis Military Lighting Overlay District	Single-Family Dwelling
East	“R-6 MLOD-1” Residential Single-Family Camp Bullis Military Lighting Overlay District	Under Construction
West	“R-6 MLOD-1” Residential Single-Family Camp Bullis Military Lighting Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of North Sector Plan and currently designated as Rural Estate Tier in the future land use component of the plan. The subject property is within the Cresta Bella Neighborhood Association. As such, they were notified and asked to comment.

Criteria for Review

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. In this case, the public interest is represented by setbacks to prevent fire spread and to protect adjacent property owners. The new house will encroach into the 20 foot setback by 15 feet. The new house will provide room for maintenance without trespass and will not produce water runoff on the adjacent property. As several residential districts permit as little as a ten feet rear seatback, staff finds the request is not contrary to the public interest, especially considering only one corner of the house is five feet away.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
Literal enforcement of the ordinance would not allow the owner of the property to build the primary dwelling as proposed. The home would need to be redesign.
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*
The intent of rear setbacks is to create an open area without crowding of structures and to establish uniform development standards to protect the rights of property owners. The rear reduction of the subject property will not significantly disrupt uniformity and will not injure the rights of adjacent property owners.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the district in which the request for a variance is located.*

The variance will not authorize the operation of a use other than those uses specifically authorized in the “R-6 MLOD-1” Residential Single-Family Camp Bullis Military Lighting Overlay District.

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 new structure will not detract from the neighborhood as the issue is related to a uniquely shaped lot. The rear reduction will not produce water runoff on adjacent properties and will not require trespass to maintain the structure.

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.*

The unique circumstance in this case is the uniquely shaped lot which restricts the owner’s ability to construct without encroaching into the rear setback.

Alternative to Applicant’s Request

The alternative to the applicant’s plan would be to comply with the rear building setbacks as defined within Section 35-310.01.

Staff Recommendation

Staff recommends **APPROVAL in A-18-077**, based on the following findings of fact:

1. The proposed new structure, even with the variance, will maintain greater than 5 feet across the majority of the dwelling, and;
2. The request does not alter the essential character of the district.