



City of San Antonio

Legislation Details (With Text)

File #: 19-8078

Type: Zoning Case

In control: Board of Adjustment

On agenda: 11/4/2019

Title: BOA-19-10300127: A request by Brady Johnson for a variance of 4'11" from the 5' side setback requirement to allow a home to be 1" from the side property line, located at 12627 Sandtrap Lane. Staff recommends Denial. (Council District 10) (Rachel Smith, Planner (210) 207- 5407, rachel.smith@sanantonio.gov, Development Services Department)

Sponsors:

Indexes:

Code sections:

Attachments: 1. 19-10300127 Attachments

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

Case Number: BOA-19-10300127

Applicant: Brady Johnson

Owner: Steve Sharma

Council District: 10

Location: 12627 Sandtrap Lane

Legal: LOT 35 BLK 39 NCB 16809

Description:

Zoning: "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District

Case Manager: Rachel Smith, Planner

Request

A request for a variance of 4'11" from the 5' side setback requirement described in Section 35-310.01 to allow a home to be 1" from the side property line.

Executive Summary

The subject property located about midblock on Sandtrap Lane in the Northern Hills subdivision. The subdivision was developed in two phases in the 1970's: the first phase was platted as a Planned Unit Development (PUD) with zero lot lines. The second phase was not platted as a Planned Unit Development, but was developed with zero lot line residences. Each home in the subdivision is within five feet and many homes have one wall on the property line, as is the case with this property. The applicant has been hired to renovate this property and is proposing to turn an alcove that currently does not have a roof and missing part of the wall, which is lying on the property line. The applicant would like to completely wall in the property to construct a

bathroom. Upon visit to the site, staff found that the neighbor’s fence gate abuts directly the subject property.

Zoning History

The subject property was annexed into the City of San Antonio on December 26, 1972 by Ordinance #41430 as “Temp R-1” Residential Single Family. The property was rezoned on October 18, 1973 by Ordinance #42924 to “R-3” Multiple Family residence district. The property was rezoned from “R-3” Multiple Family residence district to the current “R-5” Single Family residence district by Ordinance 53096, dated December 4, 1980.

Code Enforcement History

6/6/2016: Roof over patio area extended to neighbors home at the zero lot line.

Permit History

There is no permit history on file for this property.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-family dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-family dwelling
South	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-family dwelling
East	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-family dwelling
West	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-family dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is designated as “Low Density Residential” in the future land use section of the San Antonio International Airport Vicinity Plan. This property is in the boundaries of the Northern Hills Neighborhood Association, a voluntary association, who were notified about the request.

Street Classification

Sandtrap Lane is classified as a local street.

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 that maintain neighborhood character, allow for maintenance without trespass, and prevent stormwater runoff onto adjacent properties. The 4'11" side setback variance would be contrary to public interest as it would require the property owner to trespass onto the neighbor's property for long term maintenance, and would allow stormwater to runoff onto the neighbor's property.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*

Staff is unable to determine any special conditions present on the subject property to grant variances to the side setback requirement. Had the property been properly platted as a PUD this zero lot line would be legally established with appropriate maintenance easements.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

Granting the requested side setback variance would not result in substantial justice. As a result of its wood construction, the structure poses an increased risk of fire to adjacent properties. Permitting conditions that place adjacent property owner at a heightened risk of fire threat does not result in substantial justice.

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.*

The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the "R-5 AHOD" Residential Single-Family Airport Hazard 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 addition of the wall/roof of the property would result in increased fire risk for the adjacent property and ongoing trespass to maintain the property.

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 is unable to determine any unique circumstance present on the subject property to warrant the elimination of the side yard setback. The variances are requested because the carport was built without a building permit. As such, the plight of the owner was caused by the owner of the property.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the setback limitations established by the Unified Development Code Section 35-310.01.

Staff Recommendation

Staff recommends **DENIAL** of the variance in **BOA-19-10300127**, based on the following findings of fact:

1. The existing home compromises fair and equal access to air and light and poses an increased fire risk, and;
2. The project would require trespass onto adjacent property to maintain the home.