



City of San Antonio

Legislation Details (With Text)

File #: 19-2366

Type: Zoning Case

In control: Board of Adjustment

On agenda: 3/4/2019

Title: BOA 19-10300014: A request by Francisco Carmona for a 10' variance from the 20' rear setback requirement to allow for an addition to be 10' from the rear property line, located at 1221 Rivas Street. Staff recommends Approval. (Council District 5)

Sponsors:

Indexes:

Code sections:

Attachments: 1. BOA-19-10300014 Attachments

Date	Ver.	Action By	Action	Result
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Case Number: BOA 19-10300014

Applicant: Francisco Carmona

Owner: Francisco Carmona

Council District: 5

Location: 1221 Rivas Street

Legal: Lot 30 and 31, Block 3, NCB 2135

Description:

Zoning: "MF-33 MLOD-2 MLR-2 AHOD" Multi-Family Lackland
Military Lighting Overlay Military Lighting Region 2 Airport
Hazard Overlay District

Case Manager: Mercedes Rivas, Planner

Request

A request a 10' variance from the 20' rear setback requirement, as described in Section 35-371(a), to allow for an addition to be 10' from the rear property line.

Executive Summary

The subject property is located at 1221 Rivas Street. The applicant is requesting a decrease of the rear building setback line for an addition. The applicant started construction without building permits and is before the Board today seeking permission to keep what has been built.

Code Enforcement History

On January 15, 2019 the applicant received a code violation for building within the rear setback line.

Permit History

There is no permit history related to the addition on the property. The property owner is seeking a variance to allow for permit to be issued.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“MF-33 MLOD-2 MLR-2 AHOD” Multi-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“MF-33 MLOD-2 MLR-2 AHOD” Multi-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling
South	“MF-33 MLOD-2 MLR-2 AHOD” Multi-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling
East	“MF-33 MLOD-2 MLR-2 AHOD” Multi-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling
West	“MF-33 MLOD-2 MLR-2 AHOD” Multi-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The property is not located within a Community Plan. The subject property is located within the Westside Neighborhood Association. As such, they were notified and asked to comment.

Street Classification

Rivas Street 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 variance is not contrary to the public interest as the structure will not create water runoff on the adjacent property and will not injure the rights of the adjacent property owners.

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

An unnecessary hardship would result from the enforcement of the ordinance as strict enforcement would require the owner of the property to demolish and rebuild the structure in question.

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

Substantial justice will be done as the requested setbacks will still provide for a safe development pattern. The request provides fair and equal access to air and light, and provides for adequate fire separation.

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 by the zoning 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 request will not detract from the character of the district. The structure in question is in the rear yard, not affecting the public right-of-way. The structure in question does not injure the adjacent 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.*

The unique circumstance existing on the property is that these lots are small in depth, making it difficult to construct an adequate sized single family home.

Alternative to Applicant's Request

Denial of the variance request would result in the owner having to meet the required five foot side setback.

Staff Recommendation

Staff recommends **APPROVAL** of variances in **19-10300014**, based on the following findings of fact:

1. The requested setback provides room for adequate light, air, and maintenance, and;
2. The variance is unlikely to detract from the character of the district, and;
3. The variance is unlikely to have a negative impact on the adjacent properties.