



City of San Antonio

Legislation Details (With Text)

File #: 19-2363

Type: Zoning Case

In control: Board of Adjustment

On agenda: 3/4/2019

Title: BOA 19-10300009: A request by Adam Carmona for a 4'11" variance from the 5' side setback requirement to allow for an attached patio cover to be 1" from the side property line, located at 3574 Lake Tahoe Street. Staff recommends Denial with an Alternate Recommendation. (Council District 2)

Sponsors:

Indexes:

Code sections:

Attachments: 1. BOA-19-10300009 Attachments

Date	Ver.	Action By	Action	Result
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Case Number: BOA 19-10300009

Applicant: Adam Carmona

Owner: Adam Carmona

Council District: 2

Location: 3574 Lake Tahoe Street

Legal: Lot 22, Block 1, NCB 11697

Description:

Zoning: "R-4 MLOD-3 MLR-2" Residential Single-Family
Martindale Army Air Field Military Lighting Overlay
Military Lighting Region 2 District

Case Manager: Mercedes Rivas, Planner

Request

A request for a 4'11" variance from the 5' side setback requirement, as described in Section 35-371(a), to allow for an existing attached patio cover to be 1" from the side property line.

Executive Summary

The subject property is located at 3574 Lake Tahoe Street. The applicant is requesting a decrease of the side building setback line for an existing attached patio cover that was added to the home. The patio cover was built without permits. Had the applicant applied for a permit, we would have informed the owner that you cannot build within the side building setback lines.

Code Enforcement History

On June 4, 2018 the applicant received a code violation for building within the side building setback lines without a permit.

Permit History

There is no permit history related to the patio cover 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
“R-4 MLOD-3 MLR-2” Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 District	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-4 MLOD-3 MLR-2” Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 District	High Density Residential
South	“R-4 MLOD-3 MLR-2” Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 District	Single-Family Dwelling
East	“R-4 MLOD-3 MLR-2” Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 District	Single-Family Dwelling
West	“R-4 MLOD-3 MLR-2” Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The property is within the Eastern Triangle Community Plan and is designated “Low Density Residential” in the future land use component of the plan. The subject property is within the Lakeside Neighborhood Association. As such, they were notified and asked to comment.

Street Classification

Lake Tahoe 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 served by setbacks, which help to provide consistent development within the City of San Antonio. The applicant is seeking a variance to allow the existing attached patio cover to remain one inch from the side property line. Allowing the patio cover to be one inch from the side property line interferes with the character of the neighborhood. Staff finds that the patio cover, as proposed, is contrary to the public interest.

Staff's alternate recommendation for a 3' side setback is more appropriate because it adequately addresses fire separation needs and provides adequate space to maintain the structure without trespass.

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

Staff is unable to establish any special condition that warrants reducing the side setback to one inch.

Staff finds that the modification of the attached patio cover to be 3' setback from the side property line would limit potential hardships on adjoining property owners.

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 the intent of the Code, rather than the strict letter of the law. In this case, the intent is to provide enough of a setback to allow for long-term maintenance without trespass. The elimination does not provide such clearance and does not observe the spirit of the ordinance.

Modifying the attached patio cover to be 3' setback from the side property line would provide fair and equal access to air and light, while providing for adequate fire separation and storm water controls.

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 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 placement of the patio cover one inch from the side property line is contrary to the essential character of the district.

Staff finds that a 3' setback from the side property line would alleviate concerns of injuring the appropriate use of adjacent conforming properties.

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 existing on the site that warrants the near elimination of the side setback.

Staff supports the attached patio cover placement with reduced setbacks of 3' from the side property line to alleviate concerns of storm water runoff, fire spread, and maintenance of the structure.

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 **DENIAL with an Alternate Recommendation of a 2' variance from the 5' side setback to allow an existing attached patio cover to be 3' from the side property line in 19-10300009**, based on the following findings of fact:

1. The existing attached patio cover is contrary to the public interest in that it detracts from the essential character of the community.