



City of San Antonio

Legislation Details (With Text)

File #: 19-8926

Type: Zoning Case

In control: Board of Adjustment

On agenda: 12/2/2019

Title: BOA-19-10300135: A request by Hulse Wagner for a 2' variance from the 5' side setbacks to allow an accessory detached dwelling unit and detached garage to be 3' from both side property lines, located at 146 Crofton Avenue. Staff recommends Approval. (Council District 1) (Debora Gonzalez, Senior Planner (210) 207- 3074, debora.gonzalez@sanantonio.gov, Development Services Department)

Sponsors:

Indexes:

Code sections:

Attachments: 1. BOA-19-10300135 Attachments

Date	Ver.	Action By	Action	Result
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Case Number: BOA-19-10300135

Applicant: Hulse Wagner

Owner: Hulse & Sherri Wagner

Council District: 1

Location: 146 Crofton Avenue

Legal: Lot 16, Block 3, NCB 940

Description:

Zoning: "RM-4 H HS RIO-4 AHOD" Residential Mixed King
William Historic Overlay Historic Landmark River
Improvement Overlay Airport Hazard Overlay District

Case Manager: Debora Gonzalez, Senior Planner

Request

A request for a 2' variance from the 5' side setbacks, as described in Section 35-310.01, to allow an accessory detached dwelling unit and detached garage to be 3' from both side property lines.

Executive Summary

The subject property is located approximately 180 feet North from Constance Street in the King William District. The applicant is seeking to build a two story wood structure that will include an accessory detached dwelling unit and detached garage. The lot is located on an outward curve with a narrow yard towards the rear of the property. The Property has access to a 15' alley from the rear yard, which is the location of the new garage and dwelling unit. On October 17th the Historic and Design Review Commission issued a Certificate of

Appropriateness for the proposed construction.

Code Enforcement History

No code enforcement history exists for this property.

Permit History

The property owner is seeking a variance to allow a permit to be issued.

Zoning History

The subject property was in the original 36 square miles of San Antonio and was zoned “D” Apartment District. This property was rezoned to “R-2” Two Family Residence District by Ordinance 74924, dated September 17, 1991. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “R-2” Two Family Residence District converted to the current “RM-4” Residential Mixed.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“RM-4 H HS RIO-4 AHOD” Residential Mixed King William Historic Overlay Historic Landmark River Improvement Overlay Airport Hazard Overlay District	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“RM-4 H HS RIO-4 AHOD” Residential Mixed King William Historic Overlay Historic Landmark River Improvement Overlay Airport Hazard Overlay District	Single-Family Dwelling
South	“RM-4 H HS RIO-4 AHOD” Residential Mixed King William Historic Overlay Historic Landmark River Improvement Overlay Airport Hazard Overlay District	Single-Family Dwelling
East	“RM-4 H HS RIO-4 AHOD” Residential Mixed King William Historic Overlay Historic Landmark River Improvement Overlay Airport Hazard Overlay District	Single-Family Dwelling
West	“RM-4 H HS RIO-4 AHOD” Residential Mixed King William Historic Overlay Historic Landmark River Improvement Overlay Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries Downtown Neighborhood Plan and it is currently designated as “Residential” in the future land use component of the plan. The subject property is within the King William Neighborhood Association. As such, they were notified and asked to comment.

Street Classification

Crofton 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 provides room for maintenance, will not create water runoff on the adjacent property, and will not injure the rights of the adjacent property owners. The structure will be 3’ from the both side property lines and no portion of the structure will be in violation of the Clear Vision field.
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 result in not allowing the owner of the property to build the requested structure as proposed.
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 will provide fair and equal access to air and light, and provide 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 in 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.*
In older neighborhoods such as this, it is common for accessory units to be located within the side and rear setbacks established by the current Unified Development Code. The request will not detract from the character of the district. The proposed unit will be in the rear of the home, not affecting the public right-of-way or the clear vision ordinance. Within the time span the original structures had been in place, there has been no observed harm done to adjacent properties. As the new structure will occur away from the adjacent property, it is unlikely the request will 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 circumstances existing on the property are neither due to the general conditions of the district, nor due to the owner, and is not financial in nature. The character of side yards within the district are predominantly compact, leaving little room for proper building setbacks.

Alternative to Applicant's Request

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

Staff Recommendation

Staff recommends **APPROVAL** of variance in **BOA-19-10300135**, based on the following findings of fact:

1. The requested setbacks provide room for adequate light, air, and maintenance,
2. The variances are unlikely to detract from the character of the district, and;
3. The variances are unlikely to have a negative impact on the adjacent properties.