City of San Antonio

Legislation Details (With Text)

File #:	17-6521
Type:	Zoning Case
	In control: Board of Adjustment
On agenda:	12/4/2017
Title:	A-17-211: A request by Stacy and Mitchell Walker for a four foot variance from both the five foot side and rear yard setbacks, to permit a carport/accessory dwelling unit one foot from the side and rear property lines, located at 106 Magnolia Drive. Staff recommends Approval. (Council District 1)
Sponsors:	
Indexes:	
Code sections:	
Attachments:	1. A-17-211 Attachments

Date	Ver.	Action By	Action	Result

Case Number:	A-17-211
Applicant:	Stacy and Mitchell Walker
Owner:	Stacy and Mitchell Walker
Council District:	1
Location:	106 Magnolia Drive
Legal Description:	Lot 2, Block 3, NCB 6531
Zoning:	"R-4 CD H RIO-1 AHOD" Residential Single-Family River Road Historic River Improvement Overlay Airport Hazard Overlay District with Conditional Use for Two Dwelling Units
Case Manager:	Logan Sparrow, Principal Planner

Request

A request for four foot variance from both the five foot side and rear yard setbacks, as described in Section 35-371, to permit a carport/accessory dwelling unit one foot from the side and rear property lines.

Executive Summary

The subject property is located at 106 Magnolia Drive, approximately 55 feet east of Lindell Place. The applicant is seeking two variances. The first is to reduce the side setback for a carport/accessory dwelling unit from five feet to one foot. The second variance request seeks identical relief, but from the rear setback requirement. On August 2, 2017 the request was considered by the Historic Design and Review subcommittee and was granted conceptual approval of the design.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-4 CD H RIO-1 AHOD" Residential Single-Family River Road Historic River Improvement Overlay Airport Hazard Overlay District with Conditional Use for Two Dwelling Units	Duplex

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-4 CD H RIO-1 AHOD" Residential Single-Family River Road Historic River Improvement Overlay Airport Hazard Overlay District with Conditional Use for a Duplex	Single-Family Dwelling
South	"R-4 H RIO-1 AHOD" Residential Single-Family River Road Historic River Improvement Overlay Airport Hazard Overlay District	Single-Family Dwelling
East	"R-4 H RIO-1 AHOD" Residential Single-Family River Road Historic River Improvement Overlay Airport Hazard Overlay District	Single-Family Dwelling
West	"R-4 CD H RIO-1 AHOD" Residential Single-Family River Road Historic River Improvement Overlay Airport Hazard Overlay District with Conditional Use for a Duplex	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is within the boundaries of the River Road Neighborhood Plan and currently designated Low Density Residential in the future land use component of the plan. The subject property is located within the boundaries of the River Road 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 served by setbacks, which help to provide consistent development within the City of San Antonio. River Road is a unique neighborhood. Many homes within the historic district have reduced setbacks; several homes were built prior to 1938 and had no setback requirements at all. Other homes, including the subject property, were built when side setback requirements were only three feet,

and certain provisions of the code allowed for detached structures to be built on property lines. In that so many other structures in the neighborhood have reduced setbacks, staff finds that the request is not contrary to the public interest.

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

   The special condition present in this case is that reduced setbacks are an established characteristic within the community. Despite this, the neighborhood doesn't feel cramped, and this request is unlikely to affect that balance.

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. The intent of the code is to provide for consistent development and to establish room for maintenance, and to reduce the threat of fire spread. In that the structure will be fire rated, and because the proposal is consistent within the context of the community in which it is located, staff finds that the spirit of the ordinance will be observed.

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 "R-4 CD H RIO-1 AHOD" Residential Single-Family River Road Historic River Improvement Overlay Airport Hazard Overlay District with Conditional Use for Two Dwelling Units zoning.

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 that many homes within the neighborhood enjoy either primary dwelling or accessory structures within restricted setbacks, staff finds that the essential character of the community is unlikely to be negatively affected.

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 present in this case is that the requested design is not atypical within the context of the community in which it is located. This request is not merely financial in nature.

Alternative to Applicant's Request

The applicant would need to adhere to the accessory dwelling unit setback as described in Section 35-371.

Staff Recommendation

Staff recommends **APPROVAL of A-17-211** based on the following findings of fact**:**

1. The requested variance seeks relief enjoyed by many other homes within the community; and

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2. The structure will need to be fire-rated, and will still provide room for maintenance.