



City of San Antonio

Legislation Details (With Text)

File #: 16-1170
Type: Staff Briefing - Without Ordinance
In control: Board of Adjustment

On agenda: 1/11/2016

Title: A-16-033: A request by Joseph Nazaroff for a four foot variance from the ten foot rear setback to allow a home as near as six feet from the rear property line, located at 526 Roseborough Street. (Council District 2).

Sponsors:

Indexes:

Code sections:

Attachments: 1. A-16-033 attachments

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

Case Number: A-16-033
Applicant: Joseph Nazaroff
Owner: Joseph Nazaroff
Council District: 2
Location: 526 Roseborough Street
Legal Description: N IRR 23 ft. of Lot 11, Block 1, NCB 6735
Zoning: "RM-4 AHOD" Residential Mixed Airport Hazard Overlay District
Case Manager: Logan Sparrow, Senior Planner

Request

A request for a four foot variance from the minimum ten foot rear setback, as described in Table 35-310-1, to allow a home as near as six feet from the rear property line.

Executive Summary

The applicant is trying to develop a single-family home on a small lot adjacent to Interstate 10. The lot was originally of similar size to those it abuts, but a portion of the lot was dedicated to the highway during its construction. The "RM-4" Residential-Mixed District requires a ten foot rear setback, and the applicant's design encroaches into that setback by only four feet. Additionally, there are no homes behind the subject property to be affected by the requested variance.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"RM-4 AHOD" Residential Mixed Airport Hazard Overlay District	Vacant, proposed single-family dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling
South	UZROW	Interstate 10
East	UZROW	Interstate 10
West	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the Arena District Neighborhood Plan and currently designated Medium Density Residential in the future land use component of the plan. The subject property is located within the boundaries of the Denver Heights neighborhood association. As such, the neighborhood association was notified and asked to comment.

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 minimum setbacks to encourage safe, uniform development. The subject property had a large portion of the lot dedicated to ROW when Interstate 10 was built and is left with a smaller lot, making development difficult. The home, being less than 1,000 square feet, is largely designed to respect the setbacks, and encroaches into this rear setback by only four feet. As such, staff finds that the variance 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 the small lot size; a result of the interstate construction. The applicant has designed a small home and tried to keep out of restricted setbacks. Denial of the variance request would result in a substantially smaller home than that already proposed. Another special condition is that there is no development behind this property and, therefore, no property to be harmed by the requested setback reduction.

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

The “RM-4” Residential-Mixed zone already permits construction closer to the rear property line than most conventional single-family zones. Reducing the rear setback another four feet is unlikely to damage other properties and will result in substantial justice.

- 4. The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*

The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the “RM-4 AHOD” Residential-Mixed 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.

There are no properties behind this lot to be negatively affected by the requested variance.

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 present in this case are the result of the highway construction, which occurred over 60 years ago. This is not the fault of the owner, nor is this problem merely financial in nature.

Alternative to Applicant's Request

Denial of the variances would result in the project having to comply with all provisions of the Unified Development Code.

Staff Recommendation

Staff recommends **APPROVAL** of the variance request in **A-16-033** based on the following findings of fact:

1. There are no other properties behind this lot to be injured by the variance request.
2. The variance request is the result of the Interstate 10 construction.