



City of San Antonio

Legislation Details (With Text)

File #: 19-2364

Type: Zoning Case

In control: Board of Adjustment

On agenda: 3/4/2019

Title: BOA 19-10300010: A request by Jose Montelongo for 1) a 5' variance from the 10' rear setback requirement to allow a structure to be 5' away from the rear property line, and 2) a 1' variance from the 5' side setback requirement to allow a structure to be 4' away from the side property line, located at 2122 Valencia. Staff recommends Approval. (Council District 5)

Sponsors:

Indexes:

Code sections:

Attachments: 1. BOA-19-10300010 Attachments

Date	Ver.	Action By	Action	Result
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Case Number: BOA 19-10300010

Applicant: Jose Montelongo

Owner: Rosa and Jose Montelongo

Council District: 5

Location: 2122 Valencia

Legal: Lot 31, Block 24, NCB 11357

Description:

Zoning: "RM-4 MLOD-2 MLR-1 AHOD" Residential Mixed
Lackland Military Lighting Overlay Military Lighting
Region 1 Airport Hazard Overlay District

Case Manager: Mercedes Rivas, Planner

Request

A request for 1) a 5' variance from the 10' rear setback requirement, as described in Section 35-371(a), to allow a detached structure to be 5' away from the rear property line, and 2) a 1' variance from the 5' side setback requirement, as described in Section 35-371(a), to allow a detached structure to be 4' away from the side property line.

Executive Summary

The subject property is located at 2122 Valencia. The applicant is requesting a decrease of the rear and side building setback line for an existing detached accessory structure. Within this community there are some structures encroaching on the rear setback. Although most of the community is zoned "R-6" this property is

zoned “RM-4” which permits two dwelling units.

Code Enforcement History

On March 27, 2014 the applicant received a code violation for building without a permit.

Permit History

There is no permit history related to the structure 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
“RM-4 MLOD-2 MLR-1 AHOD” Residential Mixed Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Two Family Dwellings

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 MLOD-2 MLR-1 AHOD” Single-Family Residential Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Dwelling
South	“R-6 MLOD-2 MLR-1 AHOD” Single-Family Residential Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Dwelling
East	“R-6 MLOD-2 MLR-1 AHOD” Single-Family Residential Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Dwelling
West	“R-6 MLOD-2 MLR-1 AHOD” Single-Family Residential Lackland Military Lighting Overlay Military Lighting Region 1 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 Westwood Square Neighborhood Association. As such, they were notified and asked to comment.

Street Classification

Valencia 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 is that that structure is built similar to other structures built closer to rear and side property lines within the neighborhood.

Alternative to Applicant's Request

Denial of the variance request would result in the owner having to meet the required setbacks.

Staff Recommendation

Staff recommends **APPROVAL** of variances in **19-10300010**, 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.