



City of San Antonio

Legislation Details (With Text)

File #: 19-2678

Type: Zoning Case

In control: Board of Adjustment

On agenda: 3/18/2019

Title: BOA-19-10300022: A request by Tobias Stapleton for an appeal of the Historic and Design Review Commission’s denial of a request to demolish a historic structure, located at 205 Ostrom. Staff recommends Denial. (Council District 1)

Sponsors:

Indexes:

Code sections:

Attachments: 1. 19-10300022 Location Map, 2. Complete Application

Date	Ver.	Action By	Action	Result
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Case Number: BOA-19-10300022

Applicant: Tobias Stapleton

Owner: Seadc LLC

Council District: 1

Location: 205 Ostrom

Legal: Lot 1 & 2, NCB 6938

Description:

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

Case Manager: Debora Gonzalez, Senior Planner

Request

A request for an appeal of the Historic and Design Review Commission’s denial of a request to demolish a historic structure.

Applicable Code References

(a) UDC 35-451.a. Certificate of Appropriateness. Applications proposing work or changes to the exterior of a landmark, in a historic district or in a river improvement overlay district, shall require review for appropriateness with the provisions of this article, and any adopted design guidelines. In addition, the demolition or relocation of any structure designated historic shall also require review for appropriateness in the

same manner.

(b) UDC 35-614. Demolition. No certificate shall be issued for demolition of a historic landmark unless the applicant provides sufficient evidence to support a finding by the commission of unreasonable economic hardship on the applicant. In the case of a historic landmark, if an applicant fails to prove unreasonable economic hardship, the applicant may provide to the historic and design review commission additional information regarding loss of significance as provided in subsection (c) in order to receive a historic and design review commission recommendation for a certificate for demolition.

Burden of Proof. The historic and design review commission shall not consider or be persuaded to find unreasonable economic hardship based on the presentation of circumstances or items that are not unique to the property in question (i.e., the current economic climate). When a claim of unreasonable economic hardship is made, the owner must provide sufficient evidence to support a finding by the commission that:

A. The owner cannot make reasonable beneficial use of or realize a reasonable rate of return on a structure or site, regardless of whether that return represents the most profitable return possible, unless the highly significant endangered, historic and cultural landmark, historic and cultural landmarks district or demolition delay designation, as applicable, is removed or the proposed demolition or relocation is allowed;

B. The structure and property cannot be reasonably adapted for any other feasible use, whether by the current owner or by a purchaser, which would result in a reasonable rate of return; and

C. The owner has failed to find a purchaser or tenant for the property during the previous two (2) years, despite having made substantial ongoing efforts during that period to do so. The evidence of unreasonable economic hardship introduced by the owner may, where applicable, include proof that the owner's affirmative obligations to maintain the structure or property make it impossible for the owner to realize a reasonable rate of return on the structure or property.

Issuance of a Permit. When the commission recommends approval of a certificate regarding demolition of buildings, objects, sites, or structures in historic districts or historic landmarks, permits shall not be issued until all plans for the site have received approval from all appropriate city boards, commissions, departments and agencies. Once the replacement plans are approved a fee shall be assessed for the demolition based on the approved replacement plan square footage. The fee must be paid in full prior to issuance of any permits and shall be deposited into an account as directed by the historic preservation officer for the benefit, rehabilitation or acquisition of local historic resources.

(c) UDC 35-451 and 35-481. Appeals to the Board of Adjustment. The Board of Adjustment is empowered to consider an appeal of a decision by an administrative official, in this case, the Historic Preservation Officer (HPO). The appeal must be submitted by a person aggrieved by the decision. The appeal must include details regarding the incorrect interpretation made by the administrative official. In determining whether or not to grant the appeal, the board of adjustment shall consider the same factors as the commission and the report of the commission.

Background and Interpretation

The structure located at 205 Ostrom was constructed circa 1935 and is located within the River Road Historic District. The structure features architectural elements that are indicative of the Minimal Traditional Style that can be found in the district. The house features many of its original materials including wood siding and wood windows. However, modifications to the form of the historic structure have resulted in the removal and enclosing of the front porch, which now presents itself as a screened porch. Despite these modifications, staff finds the house to be a contributing resource within the River Road Historic District due to its construction date and architectural style.

Staff received a Historic and Design Review Commission Application for the proposed demolition on November 13, 2018. Staff determined the application be complete at that time. The proposed demolition was properly noticed and reviewed for a minimum of 60-days in accordance with the UDC.

The loss of a contributing structure is an irreplaceable loss to the quality and character of San Antonio. In accordance with the UDC, demolition of any contributing buildings should only occur after every attempt has been made, within reason, to successfully reuse the structure. Clear and convincing evidence supporting an unreasonable economic hardship on the applicant if the application for a certificate is disapproved must be presented by the applicant in order for demolition to be considered. The criteria for establishing unreasonable economic hardship are listed in UDC Section 35-614 (b)(3):

A. The owner cannot make reasonable beneficial use of or realize a reasonable rate of return on a structure or site, regardless of whether that return represents the most profitable return possible, unless the highly significant endangered, historic and cultural landmark, historic and cultural landmarks district or demolition delay designation, as applicable, is removed or the proposed demolition or relocation is allowed;

B. The structure and property cannot be reasonably adapted for any other feasible use, whether by the current owner or by a purchaser, which would result in a reasonable rate of return; and

C. The owner has failed to find a purchaser or tenant for the property during the previous two (2) years, despite having made substantial ongoing efforts during that period to do so. The evidence of unreasonable economic hardship introduced by the owner may, where applicable, include proof that the owner's affirmative obligations to maintain the structure or property make it impossible for the owner to realize a reasonable rate of return on the structure or property.

At the February 6, 2019, Historic and Design Review Commission hearing, the request for demolition was denied. The Historic Preservation Officer issued a Commission Action Letter consistent with this recommendation.

This decision is consistent with past recommendations. An initial request to demolish the house at 205 Ostrom was denied by the Historic and Design Review Commission on November 1, 2017. A subsequent appeal of the decision was also denied by the Board of Adjustment on December 18, 2017.

Staff Recommendation to the Board of Adjustment

Staff recommends that the Board of Adjustment uphold the Commission Action Letter dated February 6, 2019, by the Historic Preservation Officer to deny demolition.