



City of San Antonio

Agenda Memorandum

File Number: 17-5470

Agenda Item Number: 9.

Agenda Date: 10/2/2017

In Control: Board of Adjustment

Case Number: A-17-174
Applicant: Leonarda V. Romo
Owner: Leonarda V. Romo
Council District: 1
Location: 511 North Navidad Street
Legal: South 40 Feet of Lots 25-28, NCB 2817
Description:
Zoning: "MF-33 AHOD" Multi-Family Airport Hazard Overlay District.
Case Manager: Oscar Aguilera, Planner

Request

A request for a three foot variance from the five foot side setback, as described in Section 35-310.01, to allow an addition to be two feet from the side property line and 2) a one foot variance from the two foot setback, as described in Section 35-516(o), to allow an eave overhang one foot from the side property line

Executive Summary

The subject property was built in 1927 and the lot area is 4160 square feet. The property owner states that she constructed an addition to her home in order to facilitate the care of her husband. The applicant built the addition two feet from the property line with a one foot eave overhang. As such, the addition is currently located one foot from the side property line.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"MF-33 AHOD" Multi-Family Airport Hazard Overlay District	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"MF-33 AHOD" Multi-Family Airport Hazard Overlay District	Single-Family Dwelling

South	“C-2 AHOD” Commercial Airport Hazard Overlay District	Single-Family Dwelling
East	“MF-33 AHOD” Multi-Family Airport Hazard Overlay District	Single-Family Dwelling
West	“MF-33 AHOD” Multi-Family Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is not within the boundaries of any plan and therefore has no future land use designation. The subject property is located within the boundaries of the Prospect Hill / West End Hope in Act 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 represented by minimum setbacks that provide adequate room for maintenance, fire separation distances, and provide fair and equal access to air and light. The variance request seeks to reduce 80 percent of the required side setback. Staff finds that this request is contrary to the public interest because it creates unsafe conditions, specifically related to fire separation.

Staff is supportive of a two foot variance to allow the structure to be located three feet from the side property line as this distance provides room for maintenance and better fire protection.

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

There is no special condition that warrants eliminating 80 percent of the side setback. Doing so creates unsafe conditions for both the property owner and the neighbor.

Staff recommends an alternate of a three foot setback as this allows the property owner some additional space for their needs while still providing safe separation between structures.

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

The spirit of the ordinance will not be observed in that the spirit intends to provide for safe development throughout the community. Allowing a structure one foot from the side property line not only limits room for maintenance without trespass, but has fire protection implications, too.

A two foot variance to allow a three foot side setback would more easily meet required fire codes and leave more room to maintain the structure.

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 “MF-33 AHOD” Multi-Family 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.

The requested variance could harm the adjacent property because it creates unsafe fire protection distances.

A three foot side setback would provide better protection for adjacent properties.

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 plight of the owner was caused entirely by the owner of the property. Had the owner have applied for a building permit, the setback information could have been communicated well in advance of the project. It is likely that the request is largely financial in nature because the project has already been completed.

Staff is supportive of a two foot variance to provide some relief to the property owner.

Alternative to Applicant's Request

The applicant could adjust the structure and built to a three foot side setback.

Staff Recommendation

Staff recommends **DENIAL of A-17-174 based on the following findings of fact:**

1. There is no unique circumstance or special condition that warrants eliminating 80 percent of the setback requirement;
2. The request creates unsafe fire protection distances and hinders the ability to maintain the structure without trespass.

Staff recommends **APPROVAL of a two foot variance to allow a three foot side setback in A-17-174 based on the following findings of fact:**

1. A three foot side setback allows the structure to be more easily fire rated, and is more safe for the property owner and neighbors;
2. A three foot side setback allows reasonable space to maintain the structure without trespass.