



# City of San Antonio

## Agenda Memorandum

**File Number:20-1511**

---

**Agenda Item Number: 5.**

**Agenda Date: 2/3/2020**

**In Control: Board of Adjustment**

---

Case Number: BOA-19-10300144

Applicant: Francisco Rodriguez

Owner: Francisco Rodriguez

Council District: 1

Location: 821 W Cypress Street

Legal Lot 8, Block 1, NCB 129

Description:

Zoning: "R-4 CD AHOD" Residential Single Family Airport Hazard Overlay District with Conditional Use for two (2) Residential Units

Case Manager: Kayla Leal, Senior Planner

### **Request**

A request for 1) a 10' variance from the 20' rear setback requirement to allow a structure to be 10' from the rear property line and 2) a 1' variance from the 5' side setback requirement to allow a structure to be 4' from the side property line, as described in Section 35-310.01.

### **Executive Summary**

The subject property is a single family home located mid-block in West Cypress Street in between North Flores Street and Camaron Street. The property owner requested a second electrical meter from CPS Energy when it was learned the property was not zoned correctly and the dwelling unit encroached the rear and side setbacks of the subject property. The applicant applied for a zoning change on September 5, 2019. The zoning change request was approved by City Council on January 16, 2020 to permit the two dwelling units.

### **Code Enforcement History**

There is no code enforcement history on file for this property.

### **Permit History**

The property has no permits on file.

### **Zoning History**

The subject property is in original 36 square miles of the City of San Antonio and was “J” Commercial District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 3, 2001, the property zoned “J” Commercial district was converted to “I-1” Light Industry district. The property was rezoned by Ordinance 97522 to “R-4” Residential Single Family District dated April 24, 2003.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“R-4 CD AHOD” Residential Single Family Airport Hazard Overlay District	Two (2) Residential Dwelling Units

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“I-1 HS AHOD” Residential Single Family Airport Hazard Overlay District	Single family residence
South	“R-4 AHOD” Residential Single Family Airport Hazard Overlay District	Single family residence
East	“R-4 AHOD” Residential Single Family Airport Hazard Overlay District	Single family residence
West	“R-4 AHOD” Residential Single Family Airport Hazard Overlay District	Single family residence

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Midtown Regional Center Area Plan and designated as “Urban Low Density Residential” in the future land use component of the plan. The subject property is in the boundaries of the Five Points Neighborhood Association and as such, they were notified of the case.

**Street Classification**

West Cypress Street 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 served by setbacks, which help to provide consistent development within the City of San Antonio. The applicant is seeking a variance to allow a structure to be 10’ from the rear property line and 4’ from the side property line. The request will maintain the character of development in San Antonio and does not appear contrary to the public interest. Staff supports the reducing of the rear and side setbacks given that it will provide adequate room for maintenance and fire separation.**

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

**Staff cannot find any special conditions that, if enforced, would result in an unnecessary hardship. If the applicant had applied for a permit, staff could have advised the applicant of other approaches to achieve a similar effect.**

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 defined as the intent of the code, rather than the strict letter of the law. The intent of the code is to provide for consistent development, to establish room for maintenance, and to reduce the threat of fire spread. Staff supports the request to reduce the rear and side setback as it will maintain the spirit of the ordinance.**

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.*

**No uses other than those allowed within the district will be allowed with this variance.**

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 older neighborhoods such as this, accessory dwelling units are commonly located within the rear and side setbacks established by the Unified Development Code (UDC). The request does not appear to have altered the essential character of the surrounding area since being constructed and does not pose a threat to substantially injure 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 unique circumstances existing on the property are neither due to the general conditions of the district nor due to the owner, and is not financial in nature. The character of the rear and side yards within the district are predominantly compact, leaving little room for current building setbacks.**

### **Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the rear and side building setbacks as defined within Section 35-310.01.

### **Staff Recommendation**

Staff recommends **APPROVAL** of the variances in **BOA-19-10300144** based on the following findings of fact:

1. The requested variances to setbacks maintain adequate space for maintenance, light, and air,
2. The variances are unlikely to detract from the character of the district, and;
3. The variances are unlikely to have a negative impact on the adjacent properties.