



City of San Antonio

Legislation Details (With Text)

File #: 15-2287

Type: Staff Briefing - Without Ordinance

In control: Board of Adjustment

On agenda: 4/6/2015

Title: A-15-060: A request by Michael Gonzalez for a 3.5 foot variance from the minimum 5 foot side yard setback to allow a building addition 1.5 feet from the side property line, located at 2101 Sacramento Street. (Council District 1)

Sponsors:

Indexes:

Code sections:

Attachments: 1. Attachments

Date	Ver.	Action By	Action	Result
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To: Board of Adjustment

Case Number: A-15-060

Date: April 06, 2015

Applicant: Michael Gonzalez

Owner: Michael Gonzalez

Council District: 1

Location: 2101 Sacramento Street

Legal Description: Lot 8, Block 31, NCB 8478

Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District

Prepared By: Logan Sparrow, Planner

Request

A request for a three and a half foot variance from the minimum five foot side yard setback, as described in Section 35-310.01, to allow a building addition one and a half feet from the side property line.

Executive Summary

The subject property is located at 2101 Sacramento Street at the northwest corner of its intersection with Colonial Drive. The applicant is seeking a variance to allow a two-story addition to the home that violates the side setback requirement. The addition is requested to accommodate the family's need for more bedrooms and an office space. The proposed design brings the west wall of the dwelling closer to the side setback than it already is. The combination of the reduced setbacks and the two-story design are very likely to impose negative impacts on adjacent property owners.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

Surrounding Zoning/Land Use

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

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the Near Northwest Neighborhood Plan and designated as Low-Density Residential land use. The subject property is located within the boundaries of the Los Angeles Heights registered neighborhood association. As such, the neighborhood association was 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 defined as the general health, safety, and welfare of the public. In this case, these criteria are represented by minimum setback requirements to ensure that all property owners benefit from equal access to air, light, and that enough space is provided between structures to prevent the spread of fire. The requested variance conflicts with all of the aforementioned criteria. The reduced setbacks, in combination with the proposed two-story design, would compromise equal access to air and light for the adjacent property owner; and would cast a shadow over the adjacent property until at least midday. Most critically, the reduced setbacks introduce a heightened threat of fire in the community. To address this issue, the applicant would be required to construct the addition with fire-rated materials, and no windows. This would create a two-story wall very near the property line; a feature that may visually detract from the enjoyment of neighboring properties. The maintenance of the addition would require trespass, too, this is also contrary to the public interest. As such, staff finds that the requested variance is contrary to the public interest.

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

A literal enforcement of the code would require that the applicant construct the two-story addition five feet from the side property line, which, per the site plan submitted by the applicant, would be easily constructed. The applicant has stated that the primary reason for not building the addition five feet from the side property line was so that the family could retain the rear yard. While this strategy does encroach into the rear yard, it does so by only three and a half more feet. This alternative would comply with all requirements established by

the Unified Development Code. It is assumed that an 800 square foot addition will consume a fair portion of the rear yard. Staff finds that this does not constitute a special condition and that the granting of the variance would adversely impact the enjoyment of adjacent properties. Asking the applicant to construct this addition five feet from the side property line does not result in an unnecessary hardship.

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

The granting of the requested variance will not result in substantial justice, nor will the spirit of the ordinance be observed. The ordinance calls for minimum setbacks for the protection of all property owners. Justice would not be served by allowing the applicant to expand so close to the property line at the expense of the neighbors enjoyment if their own property. Also, should the Board approve the request, it will be impossible to maintain the addition without trespass onto adjacent property. This, too, does not 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 “R-4 AHOD” Residential Single-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.

While driving around the community staff confirmed that many properties comply with the three foot minimum side yard setback - the standard in place when many of these homes were built in the 1940’s. New building codes state that three feet is not adequate for the prevention of fire spreading and today, any additions must comply with the five foot minimum side yard setback. While three foot setbacks are common in this area, setbacks less than that are still rare, especially for dwellings. Staff drove along Sacramento Street, then north on Angeles Street, then east on W Olmos Street, and back to the subject property after a southward turn on Colonial Street. A survey of this block found only one other two-story home and it complied with the three foot setback in place when the home was built in 1949, per Bexar County records. Staff finds that the requested variance will injure adjacent property owners and, being in that it is the only design of its type on the block, will negatively alter the essential character of the district in which it is located.

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.

Staff is unable to find any unique circumstances present on the subject property to warrant the granting of the variance. Per the applicant, the rationale for the reduced setbacks is to preserve the rear yard as much as possible. This is not a unique circumstance and would result in a compromised enjoyment of adjacent properties.

Alternative to Applicant’s Request

The applicant would need to build the addition five feet from the side property line.

Staff Recommendation

Staff recommends **DENIAL of A-15-060** based on the following findings of fact:

1. The proposed addition compromises equal access to air and light and creates conditions by which a fire could quickly spread from one residence to another; and
2. The proposed addition would require trespass to maintain the structure; and
3. There are no other properties that violate the setback so drastically on the block.