



City of San Antonio

Legislation Details (With Text)

File #:	16-2416		
Type:	Staff Briefing - Without Ordinance	In control:	Board of Adjustment
On agenda:	4/4/2016		
Title:	A-16-054: A request by Michele Nievaard for a four foot variance from the minimum five foot side yard setback to allow a metal staircase to be one foot from the side property line, located at 214 W Lullwood Avenue. (Council District 1)		
Sponsors:			
Indexes:			
Code sections:			
Attachments:	1. A-16-054 Attachments		

Date	Ver.	Action By	Action	Result
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Case Number: A-16-054
Applicant: Michele Nievaard
Owner: Michele Nievaard
Council District: 1
Location: 214 W. Lullwood
Legal Description: Lots 29 and 30, Block 13, NCB 6533
Zoning: "R-5 H AHOD" Residential Single-Family Monte Vista Historic
Airport Hazard Overlay District
Case Manager: Margaret Pahl, AICP Senior Planner

Request

A request for a four foot variance from the minimum five foot side yard setback, as described in Table 35-310-1, to allow a metal staircase to be one foot from the side property line.

Executive Summary

The applicant has submitted construction plans for a second story addition to a detached garage adding an accessory dwelling unit. The property is located in the Monte Vista Historic District and as such has been reviewed and approved by the Historic Design and Review Commission (HDRC). Originally, the plans were approved with a metal staircase on the interior of the lot but more recently went back through HDRC review to approve the proposed alternative location along the property line. A variance is required to locate the staircase inside the minimum 5 foot setback.

According to the applicant, the interior yard area measures 20 feet by 30 feet and locating the staircase on the interior reduces the useable outdoor living space by 10% (60 feet). The applicant explains that the use is for family purposes rather than rental as their college age children and out-of-state family members regularly visit.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-5 H AHOD" Residential Single-Family Monte Vista Historic Airport Hazard Overlay District	Single-Family Home

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-5 H AHOD" Residential Single-Family Monte Vista Historic Airport Hazard Overlay District	Single-Family Home
South	"R-5 H AHOD" Residential Single-Family Monte Vista Historic Airport Hazard Overlay District	Single-Family Home
East	"R-5 H AHOD" Residential Single-Family Monte Vista Historic Airport Hazard Overlay District	Single-Family Home
West	"R-5 H AHOD" Residential Single-Family Monte Vista Historic Airport Hazard Overlay District	Single-Family Home

Comprehensive Plan Consistency/Neighborhood Association

The property is located within the boundaries of the Monte Vista Plan, which was written and adopted in 1988 without future land use designated. There is an active, registered Monte Vista neighborhood association and 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 defined as the general health, safety, and welfare of the public. The public interest is represented by minimum setback requirements to prevent land use conflicts arising from proximity. In this case, the proposed 2 story staircase could impact the quiet enjoyment of the adjacent property.

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

Staff could find no special property-related hardship to warrant relocating the staircase to the side property line.

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

The spirit of the ordinance represents the intent of the requirement. The setback standard was established to allow for maintenance without trespass and the necessary air and light. Installing the staircase on the property line will hinder the ability to have access on that side of the structure. In fact, the addition of a two-story structure in the rear yard will be one of the only two-story structures in the neighborhood and eliminating the side setback, even with a metal staircase, does not observe the spirit of the ordinance.

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 other than those specifically permitted in the “R-5 H AHOD” Residential Single-Family Monte Vista Historic 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 to allow a metal staircase adjacent to the side property line could injure the adjacent property by providing a required landing at the top of the stairs with direct sight-lines into the neighboring yard.

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 found no unique circumstance that was not self-imposed. The lots within this historic district are all small by today’s standards and occupants sacrifice lot size to live in this district.

Alternative to Applicant’s Request

The applicant would be required to install the staircase as originally approved.

Staff Recommendation

Staff recommends **DENIAL of variance request in A-16-054** based on the following findings of fact:

1. The lot has no unique circumstances warranting a variance to the minimum setback.
2. The lot sizes were established in 1926 and are consistent throughout the neighborhood.