



City of San Antonio

Legislation Details (With Text)

File #: 16-3583
Type: Zoning Case
In control: Board of Adjustment
On agenda: 7/11/2016
Title: A-16-089 (Continance from 05/23/16): A request by Bernabe Mata for a 4 foot variance from the required 5 foot side yard setback to allow a primary dwelling unit to be one foot from the side property line, located at 3126 Owasso Street. (Council District 4)
Sponsors:
Indexes:
Code sections:
Attachments: 1. A-16-089 Attachments

| Date | Ver. | Action By | Action | Result |
|------|------|-----------|--------|--------|
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Case Number: A-16-089
Applicant: Bernabe Mata
Owner: Bernabe Mata
Council District: 4
Location: 3126 Owasso Street
Legal Description: Lot 37, Block 15, NCB 12668
Zoning: "RM-4 AHOD" Residential-Mixed Airport Hazard Overlay District
Case Manager: Shepard Beamon, Planner

Request

A request for a 4 foot variance from the required 5 foot side yard setback, as described in Section 35-310.01, to allow a primary dwelling unit to be one foot from the side property line.

Executive Summary

The applicant currently resides in the Palo Alto Community. The home was originally constructed in 1955. A home addition was built in 2006 and the current owner wishes to add-on to the home again with a second-story, three room home addition. The applicant began constructing the second-story home addition and was cited for building without permits. Currently the second story home addition is built one foot from the side property line. The applicant wishes to provide more room for his family and keep the home addition in the current location.

Subject Property Zoning/Land Use

| Existing Zoning | Existing Use |
|---|------------------------|
| "RM-4 AHOD" Residential-Mixed Airport Hazard Overlay District | Single-Family Dwelling |

Surrounding Zoning/Land Use

| Orientation | Existing Zoning District(s) | Existing Use |
|-------------|---|------------------------|
| North | "RM-4 AHOD" Residential-Mixed Airport Hazard Overlay District | Single-Family Dwelling |
| South | "RM-4 AHOD" Residential-Mixed Airport Hazard Overlay District | Single-Family Dwelling |
| East | "RM-4 AHOD" Residential-Mixed Airport Hazard Overlay District | Single-Family Dwelling |
| West | "RM-4 AHOD" Residential-Mixed Airport Hazard Overlay District | Single-Family Dwelling |

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the Heritage South Sector Plan and designated as suburban tier in future land use component of the plan. The subject property is not located within a Neighborhood Association.

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, the public interest is represented by setbacks that help to ensure that we have uniform, safe development within the City of San Antonio. A primary dwelling unit located one foot from the side property line is contrary to the public interest as it increases fire risk and water runoff to adjacent property.

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

Staff was unable to find a special condition in this case that would require the applicant to expand the primary dwelling unit to be one foot from the side property line. The applicant could construct a home addition in the rear of the home instead of within the side setback of the property.

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

Granting the variance will not result in substantial justice as there is not a property related hardship that requires the applicant to build one foot from the side property line thus increasing water runoff and fire risk for the adjacent property.

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 "'RM-4 AHOD" Residential-Mixed 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.*

A primary dwelling unit built one foot from the side property line will increase water runoff and increase fire risk to the adjacent property. The applicant has substantial space to construct a home addition toward the rear of the property that would meet the required side and rear setbacks.

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 was unable to find a unique circumstance which would require the applicant to locate the primary dwelling unit only one foot from the side property line. The location of the home addition unnecessarily increases fire risk and water runoff and does not leave any space for maintenance of the structure without trespass.

Alternative to Applicant's Request

The applicant could build a home addition that meets the required side setbacks.

Staff Recommendation

Staff recommends **DENIAL of variance request in A-16-089** based on the following findings of fact:

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| 1. There is not a property related hardship in this case. 2. Having a primary dwelling unit so close to the side property line will unnecessarily increase water runoff and fire spread and will not leave room for maintenance without trespass. |
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