



City of San Antonio

Legislation Details (With Text)

File #: 16-5855
Type: Zoning Case
In control: Board of Adjustment
On agenda: 11/21/2016
Title: A-16-184: A request by Jared Holbrook for a four foot variance from the minimum 20 foot rear setback to allow a home 16 feet from the rear property line, located at 10314 Dreamland. Staff recommends Approval. (Council District 9)
Sponsors:
Indexes:
Code sections:
Attachments: 1. Attachment

Date	Ver.	Action By	Action	Result
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Case Number: A-16-184
Applicant: Jared Holbrook
Owner: Cari Morrison & Jared Holbrook
Council District: 9
Location: 10314 Dreamland
Legal: Lots 21 & 22, NCB 11668
Description:
Zoning: "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager: Margaret Pahl, AICP, Senior Planner

Request

A request for a 4 foot variance from the minimum 20 foot rear setback, as described in Table 35-310-1, to allow a home 16 feet from the rear property line.

Executive Summary

The subject property includes 53,000 square feet of lot area in two distinct lots. Each measures over 100 feet in width and over 200 feet in depth. One of the lots has a large, older home that is in need of restoration. Last year, the owner hired contractor to build a new home on the other lot, so that they would have a place to live while working on the renovation. No building permit was secured and the home is now the subject of a code enforcement case to gain all approvals. A rear setback variance is one of the first steps toward gaining the necessary permits for the new house. According to the application, the owner built the subject home in its current location to avoid disturbing existing trees and to make use of an existing slab as a patio.

Subject Property Zoning/Land Use

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

Surrounding Zoning/Land Use

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

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the North Sector Plan and currently designated as Suburban Tier in the future land use component of the plan. The subject property is located within the boundaries of the Vance Jackson 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 defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by the minimum setbacks. According to the applicant, the nearest structure is 60 feet away.

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

Literal enforcement of the ordinance will force the partial destruction of the recently constructed home, potentially an unnecessary hardship. The applicant is in the process of gaining all of the approvals and inspections in order to bring the home into compliance with codes and requirements. The four foot rear yard variance is one of the first steps in proceeding to accomplish this goal.

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 the intent of the Code, rather than the strict letter of the law. In this case, the intent of the rear setback is to provide adequate separation for each home to increase the quiet enjoyment of a rear yard. The subject property is over a half-acre in size and the house is setback far from the front roadway.

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 variances will not authorize the operation of a use on the subject property other than those specifically permitted in the “R-5 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.*

The building, as constructed, is hidden from view of the public right of way. The neighboring home to the rear however has expressed concern about the reduced setback. The Board will be asked to evaluate the impacts on the adjacent conforming structure in their decision regarding the requested variance.

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 circumstance according to the applicant is the location of existing trees and the location of an old slab for use as a patio.

Alternative to Applicant’s Request

Without the requested variance, the owner will be required to remove that portion of the building that is encroaching into the rear setback.

Staff Recommendation

Staff recommends **APPROVAL** of the requested variance, detailed in **A-16-184** based on the following findings of fact:

1. The applicant is working toward getting the structure permitted as required by Code; and
2. The home was constructed in a clearing of existing trees.