



City of San Antonio

Legislation Details (With Text)

File #: 17-3034
Type: Zoning Case
In control: Board of Adjustment
On agenda: 5/1/2017
Title: A-17-092: A request by Patricia Gomez Monroy for a 5 foot variance from the 10 foot side setback to allow a commercial building 5 feet from the side property line, located at 2222 IH-35 North. Staff recommends Denial. (Council District 2)
Sponsors:
Indexes:
Code sections:
Attachments: 1. A-17-092 Attachments

| Date | Ver. | Action By | Action | Result |
|------|------|-----------|--------|--------|
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Case Number: A-17-092
Applicant: Patricia Gomez Monroy
Owner: Patricia Gomez Monroy
Council District: 2
Location: 2222 IH 35 North
Legal: Lot 6, Block 13, NCB 1695
Description:
Zoning: "C-2 AHOD" Commercial Airport Hazard Overlay District
Case Manager: Margaret Pahl, AICP, Senior Planner

Request

A request for a 5 foot variance from the minimum 10 foot side setback, described in Table 35-310, to allow a new commercial building with a 5 foot side setback.

Executive Summary

The subject property is located along the IH 35 North highway just east of downtown. The property was rezoned in 2014 from "MF-33" Multi-Family Residential to its current designation "C-2" Commercial. The property immediately west is also zoned "C-2 and identified as a law office. Setbacks are triggered by use, so the residential use of the adjacent property to the east is requiring that the subject property be developed with a ten foot side setback. The property is just over 50 feet in width and the applicant hopes to build four small single-story commercial office spaces, with approximately 440 square feet each. The parking will be located near the front of the site. A variance is required to allow the project to proceed as designed, though the applicant has not submitted for any building permits.

Subject Property Zoning/Land Use

| Existing Zoning | Existing Use |
|-------------------------------------------------------|--------------|
| "C-2 AHOD" Commercial Airport Hazard Overlay District | Vacant |

Surrounding Zoning/Land Use

| Orientation | Existing Zoning District(s) | Existing Use |
|-------------|-----------------------------------------------------------------------|------------------------|
| North | UZROW | Interstate Highway |
| South | "I-1 AHOD" General Industrial Airport Hazard Overlay District | Single-Family Dwelling |
| East | "MF-33 AHOD" Multi-Family Residential Airport Hazard Overlay District | Two Family Residential |
| West | "C-2 AHOD" Commercial Airport Hazard Overlay District | Law Office |

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the Government Hill Plan and designated for Community Commercial in the future land use component of the plan. The subject property is also located within the boundaries of the Government Hill Alliance 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 adequate setbacks in order to allow air flow and light. The existing structure is very close to the property line, with a large eave overhang, making the requested variance contrary to the public interest.

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

Literal enforcement of the ordinance would require that the property owner reduce the width of their project by five feet to provide the required setback. This is necessary since the adjacent structure is residential, built very close to the property line and includes a wooden eave overhang.

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 intention of the code rather than the exact letter of the law. The intent of the Code is to provide a setback when adjacent to residential use, as in this case. Therefore, reducing the setback to five feet will not observe the intent.

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.*

The variance will not authorize the operation of a use other than those uses specifically authorized in the “C-2 AHOD” Commercial 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 applicant is requesting a reduction of the required setback to allow construction of a new commercial structure very close to an existing residential building. While the proposed design is very attractive, the proximity of the new building to the existing residential structure could injure the older building’s integrity.

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 plight of the owner is that the commercial lot is narrow, making construction of a new building challenging. The lot has grade issues as well and is elevated above the street to the rear, Osborne Street. However, the proposed setback does not recognize the proximity of the adjacent existing structure.

Alternative to Applicant’s Request

Denial of the requested variance would result in the applicant having to provide the minimum side setback.

Staff Recommendation

Staff recommends **DENIAL of the requested variance in A-17-092** based on the following findings of fact:

1. The adjacent home is very close to the side property line and includes an eave overhang;
2. The setback is required to provide a buffer between residential and commercial uses.