



City of San Antonio

Legislation Details (With Text)

File #: 17-5512
Type: Zoning Case
In control: Board of Adjustment
On agenda: 10/2/2017
Title: A-17-167: A request by David Mitchell for a 15 foot variance from the 30 foot rear setback to allow a 15 foot rear setback, located at 9444 Bandera Road. Staff recommends Approval. (Council District 8)
Sponsors:
Indexes:
Code sections:
Attachments: 1. BOA17-167 Attachment

Date	Ver.	Action By	Action	Result
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Case Number: A-17-167
Applicant: David Mitchell
Owner: David Mitchell
Council District: 8
Location: 9444 Bandera Road
Legal: Lot 3, Block 1, NCB 17930
Description:
Zoning: “C-2 CD AHOD” Commercial Airport Hazard Overlay District with Conditional Use for Auto and Truck Repair
Case Manager: Shepard Beamon, Senior Planner

Request

A request for a 15 foot variance from the 30 foot rear setback, as described in Section 35-310.01, to allow commercial building to be 15 feet from the rear property line.

Executive Summary

The applicant is requesting the variance to construct a new commercial building in conjunction with the existing auto repair building on the site. The proposed one-story metal building is to be constructed 15 feet from the rear property line. Previously, there was a rear metal structure that was in place for at least the past 10 years.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
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“C-2 CD AHOD” Commercial Airport Hazard Overlay District with Conditional Use for Auto and Truck Repair	Auto and Truck Repair
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Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	City Park
South	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District; “C-3 AHOD” General Commercial Airport Hazard Overlay District	Nursery, Auto Dealership, Vacant Commercial
East	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Nursery
West	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District; “C-3R AHOD” General Commercial Restrictive Alcoholic Sales Airport Hazard Overlay District	Gas Station, Church

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the Huebner/Leon Creeks Neighborhood Plan and currently designated as Community Commercial in the future land use component of the plan. The subject property is not located within the boundaries of a registered neighborhood association.

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 minimum setbacks. The requested 15 foot setback is adequate as there is enough room to maintain the structure without trespass.

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

Literal enforcement would cause an unnecessary hardship as the 30 foot rear setback reduces the size of the proposed metal building that is replacing an existing 10 year old metal structure.

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

The spirit of the code will be observed as the new structure will provide adequate separation between two conflicting uses.

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 “C-2 CD AHOD” Commercial Airport Hazard Overlay District with Conditional Use for Auto and Truck Repair.

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 request should not have any impact on the adjacent properties as the closest structure on the residential property is over 150 feet away from the proposed metal building.

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.

To meet the full 30 foot rear setback, the business would lose a large amount of developable space on the site.

Alternative to Applicant’s Request

The owner would need to construct the metal building to meet the 30 foot rear setback.

Staff Recommendation

Staff recommends **APPROVAL of a 15 foot variance from the 30 foot rear setback**, based on the following findings of fact:

1. There is room for maintenance without trespass; and
2. The closest building on the adjacent property is over 150 feet from the proposed structure and would not be harmed.