



City of San Antonio

Legislation Details (With Text)

File #: 18-2658
Type: Zoning Case
In control: Board of Adjustment
On agenda: 4/2/2018
Title: A-18-061: A request by Paul D. Palacio for a 13 foot variance from the 20 foot rear setback to allow an attached garage to be seven feet from the rear property line, located at 806 West Theo Street. Staff recommends Denial. (Council District 5)
Sponsors:
Indexes:
Code sections:
Attachments: 1. A-18-061 Attachments

Date	Ver.	Action By	Action	Result
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Case Number: A-18-061
Applicant: Paul D. Palacio
Owner: Paul D. Palacio
Council District: 5
Location: 806 West Theo St.
Legal: Lot 91, Block 22, NCB 3465
Description:
Zoning: “R-5 AHOD” Residential Single-Family Airport Hazard Overlay District
Case Manager: Dominic Silva, Planner

Request

A request for a 13 foot variance from the 20 foot rear setback, as described in Section 35-310.01, to allow an attached garage to be seven feet from the rear property line.

Executive Summary

The subject property is located at 806 West Theo Street, 91 feet west of Carnot Street. The applicant wishes to build a 336 square foot garage attached to an existing 696 square foot garage in the rear of the property with gated access to West Malone Ave. The proposed structure would encroach thirteen feet into the rear setback if approved. Staff is concerned that the proposal would allow for an over-built lot. The existing garage already provides room for two vehicles.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
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"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
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Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"MF-33 AHOD" Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling
South	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
East	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
West	"R-5 CD AHOD" Residential Single-Family Conditional Use Airport Hazard Overlay District with Conditional Use for Duplex	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is within the boundaries of the Nogalitos/South Zarzamora Plan and currently designated as Medium Density Residential in the future land use component of the plan. The subject property is not located within a 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, given the proposed overdevelopment of the lot, granting the variances will not provide adequate accessibility to light, air, and open space. Upon staff evaluation, the owner has an incomplete carport permit for the rear that can be pursued without variances. The applicant also owns two properties adjacent of 806 West Theo that can be developed. Because the variance is not necessary, staff finds that the variance is contrary to the public interest.

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

Staff cannot find any special conditions that, if enforced literally, would result in any unnecessary hardship. The applicant already has a two car garage attached to the residence and no special condition is present to warrant development beyond the rear setback.

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. The intent of the setback limitation is to prevent fire spread, allow adequate space for maintenance, and encourage proper storm water drainage. Because the applicant has already developed on the lot to nearly the maximum extent, the

intents of this law could not be followed if the variance is approved.

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 requested variance will not permit a use not authorized within 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 variance procedure is set aside to assist property owners that, as a result of some physical abnormality on their property, cannot meet the established development standards. In this situation, the applicant’s proposal to add yet more garage space would lead to the lot being overdeveloped. The applicant owns two properties adjacent to 806 West Theo and has other avenues to develop cover for their vehicles. Staff finds that granting a variance would permit another structure in violation of the setbacks without cause.

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 cannot find any unique circumstances existing on the property nor conditions in the district in which the property is located that warrant the requested relief. The proposed project, if allowed, would overdevelop the lot and minimize light, air, and open space.

Alternatives to Applicant’s Request

The alternative to the applicant’s request is to conform to rear setbacks set forth in the Unified Development Code.

Staff Recommendation

Staff recommends **DENIAL of A-18-061** based on the following reasons:

1. The requested variance will allow the lot to be over-developed, and;
2. The lots adjacent can be developed to provide protection for personal vehicles, or utilization of the existing two car garage on the proposed lot.