



City of San Antonio

Legislation Details (With Text)

File #: 19-3917

Type: Zoning Case

In control: Board of Adjustment

On agenda: 5/6/2019

Title: BOA 19-10300047: A request by Daniel and Paulina Minesinger for a 3’6” from the 5' side setback requirement to allow an addition to be as close as 1’6” away from the west side property line, located at 235 Yellowstone Street. Staff recommends Approval. (Council District 5) (Mercedes Rivas, Planner, (210) 207-0215, Mercedes.Rivas2@sanantonio.gov, Development Services Department)

Sponsors:

Indexes:

Code sections:

Attachments: 1. BOA-19-10300047 Attachments

Date	Ver.	Action By	Action	Result
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Case Number: BOA 19-10300047

Applicant: Daniel and Paulina Minesinger

Owner: Daniel and Paulina Minesinger

Council District: 5

Location: 235 Yellowstone Street

Legal: Lot 9, Block 1, NCB 6305

Description:

Zoning: “R-6 H RIO-4 AHOD” Residential Single-Family River Improvement Overlay Airport Hazard Overlay District

Case Manager: Mercedes Rivas, Planner

Request

A request for a 3’6” from the 5' side setback requirement, as described in Section 35-371(a), to allow an addition to be as close as 1’6” away from the west side property line.

Executive Summary

The applicants are requesting a decrease of the west side building setback line for an addition that they plan to add to their home. The lot is shaped oddly in that the further back you go, the narrower the lot becomes, which is why the applicants are requesting a variance. The Office of Historic Preservation and the Historic Design Review Commission have approved the proposed design and are in support of this variance.

Code Enforcement History

No Code Enforcement history exists on the property.

Permit History

There is no permit history related to the addition on the property. The property owner is seeking a variance to allow for permit to be issued.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-6 H RIO-4 AHOD” Residential Single-Family River Improvement Overlay Airport Hazard Overlay District	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“C-3 NA H RIO-4 AHOD” Residential Single-Family River Improvement Overlay Airport Hazard Overlay District	Commercial Property
South	“R-6 H RIO-4 AHOD” Residential Single-Family River Improvement Overlay Airport Hazard Overlay District	Single-Family Dwelling
East	“R-6 H RIO-4 AHOD” Residential Single-Family River Improvement Overlay Airport Hazard Overlay District	Single-Family Dwelling
West	“R-6 H RIO-4 AHOD” Residential Single-Family River Improvement Overlay Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The property is within the Lone Star Community Plan and is designated “Low Density Mixed Use” in the land use component of the plan. The subject property is within the Roosevelt Park Neighborhood Association. As such, they were notified and asked to comment.

Street Classification

Yellowstone Street is classified as a Local Street.

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 variance is not contrary to the public interest as the structure will not create water runoff on the

adjacent property and will not injure the rights of the adjacent property owners.

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

An unnecessary hardship would result from the enforcement of the ordinance as strict enforcement would require the owners of the property to build the addition within the required setbacks

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. All intents of this law will be observed if 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 variance will not authorize the operation of a use other than those uses specifically authorized by the zoning 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.*

This variance would not substantially injure or alter the use or character of adjacent conforming property or character of the district. Specifically, the variance would not place the structure out of character within the community. Further, the unit in question is in the rear yard, not affecting the public right-of-way. The structure in question does not injure the adjacent property.

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 existing on the property is that the lot is shaped oddly in that the further back you go, the narrower the lot becomes, which is why the applicants are requesting a variance

Alternatives to Applicant's Request

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

Staff Recommendation

Staff recommends **APPROVAL** of variances in **BOA-19-10300047** based on the following findings of fact:

1. The requested variance will not detract from the character of the district and is highly unlikely to be seen from the right-of-way, and;
2. Adequate space will be utilized to prevent storm water runoff, maintenance of property, and maintenance of the structure without trespass.