



City of San Antonio

Legislation Details (With Text)

File #: 19-7466
Type: Zoning Case
In control: Board of Adjustment
On agenda: 10/7/2019
Title: BOA-19-10300107: A request by Pamela Carpenter for a 4' variance from the 5' side setback requirement to allow a detached accessory dwelling unit to be 1' from the west property line, located at 314 West Elsmere Place. Staff recommends Approval. (Council District 1) (Debora Gonzalez, Senior Planner (210) 207- 3074, debora.gonzalez@sanantonio.gov, Development Services Department)
Sponsors:
Indexes:
Code sections:
Attachments: 1. BOA-19-10300107 Attachments

Date	Ver.	Action By	Action	Result
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Case Number: BOA-19-10300107
Applicant: Pamela Carpenter
Owner: Virgil Clay and Kimberly Klein Cauthorn
Council District: 1
Location: 314 West Elsmere Place
Legal: Lot 7 & 8, Block 2, NCB 3967
Description:
Zoning: "R-5 H AHOD" Residential Single-Family Monte Vista
Historic Airport Hazard Overlay District
Case Manager: Debora Gonzalez, Senior Planner

Request

A request for a 4' variance from the 5' side setback requirement, as described in Section 35-310.01, to allow a detached accessory dwelling unit to be 1' from the west property line.

Executive Summary

The subject property is located approximately 300 feet East from San Pedro Avenue. The applicant is requesting a variance to maintain 1' from the west property line to rehabilitate an existing detached accessory structure. The existing detached accessory structure is a single-car garage and a storage room that will be modified to an accessory detached dwelling unit. On August 7th the Historic and Design Review Commission approved the applicant's request with stipulations not related to the side setback.

Code Enforcement History

No code enforcement history exists for this property.

Permit History

No permit history related to the detached dwelling unit. The property owner is seeking a variance to allow a permit to be issued.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-5 H AHOD” Residential Single-Family Monte Vista Historic Airport Hazard Overlay District	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-5 H AHOD” Residential Single-Family Monte Vista Historic Airport Hazard Overlay District	Single-Family Dwelling
South	“R-5 H AHOD” Residential Single-Family Monte Vista Historic Airport Hazard Overlay District	Single-Family Dwelling
East	“R-5 H AHOD” Residential Single-Family Monte Vista Historic Airport Hazard Overlay District	Single-Family Dwelling
West	“R-5 H AHOD” Residential Single-Family Monte Vista Historic Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of Monte Vista Neighborhood Plan. The subject property is within the Monte Vista Neighborhood Association. As such, they were notified and asked to comment.

Street Classification

West Elsmere 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 already existing structure is only been rehabilitated and the footprint is not expanding. Staff finds the request is not contrary to the public interest.

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

Due to the structure existing as detached accessory dwelling unit, a literal enforcement of the ordinance would result in unnecessary hardship by requiring the entire structure be moved to meet the 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. 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 district in which the request for a variance is located.*

The variance will not authorize the operation of a use other than those uses specifically authorized in 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 the district. Specifically, the variance would not place the structure out of character within the community.

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 circumstances existing on the property are neither due to the general conditions of the district, nor due to the owner, and is not financial in nature. The characters of side yards within the district are predominantly compact, leaving little room for proper building setbacks.

Alternative to Applicant's Request

The alternative to the applicant's plan would be to comply with the side building setbacks as defined within Section 35-310.01.

Staff Recommendation

Staff recommends **APPROVAL** of variance in **BOA-19-10300107**, based on the following findings of fact:

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