



City of San Antonio

Legislation Details (With Text)

File #: 19-7468
Type: Zoning Case
In control: Board of Adjustment
On agenda: 10/7/2019
Title: BOA-19-10300114: A request by Elbert Anthony Fuqua for a 4'11" variance from the 5' side setback requirement to allow two new structures to be 1" from the east and west property line, located at 400 Montana Street. Staff recommends Denial with an Alternate Recommendation. (Council District 2) (Debora Gonzalez, Senior Planner (210) 207- 3074, debora.gonzalez@sanantonio.gov, Development Services Department)
Sponsors:
Indexes:
Code sections:
Attachments: 1. BOA-19-10300114 Attachments

Date	Ver.	Action By	Action	Result
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Case Number: BOA-19-10300114
Applicant: Elbert Anthony Fuqua
Owner: Elbert Anthony Fuqua
Council District: 2
Location: 400 Montana Street
Legal: The West 25 feet of Lot 1, Block 1, NCB 609
Description:
Zoning: "IDZ-2 AHOD" Infill Development Zone with uses permitted for Two Residential Units Airport Hazard Overlay District
Case Manager: Debora Gonzalez, Senior Planner

Request

A request for a 4'11" variance from the 5' side setback requirement, as described in Section 35-310.01, to allow two new structures to be 1" from the east and west property lines.

Executive Summary

The subject property is located at 400 Montana Street in the intersection of South Mesquite and Montana Street. The applicant is seeking to build two new houses 1" away from the east and west property line. The lot is currently vacant and 2,300 square feet. On June 6th, 2019 City Council approved the rezoning of this property from "AE-2 AHOD" Arts and Entertainment Airport Hazard Overlay District to "IDZ-2 AHOD" Infill Development Zone Airport Hazard Overlay District with uses permitted for Two Residential Units; the site plan

adopted by City Council reflects a 5 foot perimeter to the east and west property lines. The subject property is currently adjacent to the east to undeveloped lots.

Code Enforcement History

No Code Enforcement history exists on the property.

Permit History

No permits have been issued for this project.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“IDZ-2 AHOD” Infill Development Zone Airport Hazard Overlay District with uses permitted for Two Residential Units	Vacant

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“AE-2 AHOD” Arts and Entertainment Airport Hazard Overlay District	Single-Family Dwelling
South	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling
East	“AE-2 AHOD” Arts and Entertainment Airport Hazard Overlay District	Vacant
West	“AE-2 AHOD” Arts and Entertainment Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The property is located within the boundaries of the Downtown Community Plan is currently designated as “Residential” in the future land use component of the plan. The subject property is located within the boundaries of the Alamodome Gardens Neighborhood Association. As such, they were notified and asked to comment.

Street Classification

Montana 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 served by setbacks, which help to provide consistent development within the City of San Antonio. The applicant is seeking a variance to allow two new structures to be 1" from the east and west property lines. The requested 1" side setback abutting the adjacent lot fails to provide adequate fire separation distance, provides no room for maintenance, and may drain water onto adjacent property. Staff finds that the two new structures, as proposed, are contrary to the public interest.

Staff supports reducing the west property line to 1", abutting the street, which would provide adequate room for maintenance and would provide better separation for fire spread and rainwater runoff.

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

Staff is unable to establish any special condition that warrants reducing the east property line to 1". The applicant could modify the proposed two new structures to be at 5' from east property line.

Staff supports a 1" reduction on the west property line, as it addresses these concerns.

2. *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 code is to provide for consistent development and to establish room for maintenance, and to reduce the threat of fire spread. The request to reduce the east property line does not observe the intent of the code.

Staff supports a 1" reduction on the west property line, as it addresses these concerns.

3. *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.

4. *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.*

While other structures in the neighborhood enjoy reduced setbacks, staff cannot support a 1" from the east property line. It poses immediate risk to adjacent property and leaves no room for maintenance of the structure. The two new houses could be modified to allow the structures at 5' from the east property line.

Staff supports a 1" reduction on the west property line, as it is located in a corner lot with one side adjacent to a public right-of-way.

5. *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 is unable to determine a unique circumstances existing on the site.

The new houses should be designed in a manner that respects the intent of the code.

Alternative to Applicant's Request

Denial of the variance request would result in the owner having to meet the required side setbacks and adhere to Section 35-310.01.

Staff Recommendation

Staff recommends **DENIAL** of the 4'11" variance from the 5' side setback requirement for both the west and east property lines **WITH AN ALTERNATE RECOMMENDATION** of a variance **to allow two new structures to be 1" from the west property line only** in **BOA-19-10300114**, based on the following findings of fact:

1. The request creates unsafe fire protection distances.
2. A 1" side setback on the west property line allows will allow the structures to be easily fire rated, and safe for the property owners and neighbors, and;
3. A 1" side setback on the west property line provides reasonable space to maintain the structures due to the corner lot with one side adjacent to a public right-of-way.