City of San Antonio

Legislation Details (With Text)

File #:	19-7808
Type:	Zoning Case
In control:	Board of Adjustment
On agenda:	10/21/2019
Title:	BOA-19-10300122: A request by Derek Gisriel for 1) a 4'11" variance from the 5' side setback requirement to allow a detached dwelling unit to be 1" from the side property line and 2) a 2' variance from the 5' rear setback requirement to allow a detached dwelling unit to be 3' from the rear property line, located at 802 Matagorda Street. Staff recommends Approval. (Council District 1) (Rachel Smith, Planner (210) 207- 5407, rachel.smith@sanantonio.gov, Development Services Department)
Sponsors:	
Indexes:	
Code sections:	
Attachments:	1. BOA-19-10300122 Attachments final

Date	Ver.	Action By	Action	Result

Case Number:	BOA-19-10300122
Applicant:	Derek Gisriel
Owner:	Derek Gisriel
Council District:	1
Location:	802 Matagorda St
Legal Description:	LOT 2 BLK 10 NCB 713
Zoning:	"RM-4 H HS AHOD" Residential Single-Family Lavaca Historic Hung KuoKuo Ming Tong Historic Landmark Site Airport Hazard Overlay District
Case Manager:	Rachel Smith, Planner

Request

A request for 1) a 4'11" variance from the 5' side setback requirement, as described in Section 35-310.01, to allow a detached dwelling unit to be 1" from the side property line and 2) a 2' variance from the 5' rear setback requirement, as described in Section 35-310.01, to allow a detached dwelling unit to be 3' from the rear property line.

Executive Summary

The subject property is a historic home in the Lavaca neighborhood. The home is on a corner lot which abuts a very narrow street along the side property line. All surrounding properties carry a historic designation. The property has two structures: the primary dwelling structure and the accessory structure. The accessory structure

is being renovated to allow the applicants' elderly disabled parent to live in the accessory structure. The applicant has already obtained a Certificate of Appropriateness from the Office of Historic Preservation and is seeking the variance to allow the structure to remain in its original location.

Zoning History

The subject property is located within the original thirty-six square mile area of San Antonio and was zoned "R-2" Two-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned "R-2" Two-Family Residence District converted to the current "RM-4" Multi-family District.

Code Enforcement History

No code enforcement history exists on this property.

Permit History

There is no permit history related to the accessory dwelling unit on the property. The applicant is seeking the variance to allow renovations to commence.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"RM-4 H HS AHOD" Residential Single-Family Lavaca Historic Hung KuoKuo Ming Tong Historic Landmark Site Airport Hazard Overlay District	Single-family dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"RM-4 H HE" Residential Single-Family	Single-family dwelling
South	"RM-4 H HE" Residential Single-Family	
East	"RM-4 H HE" Residential Single-Family	Wholesale Paint Supply Store
West	"RM-4 H HE" Residential Single-Family	VIA Transit Offices

Comprehensive Plan Consistency/Neighborhood Association

The subject property is designated as a regional center in the Midtown subarea plan and as regional mixed-use in the Midtown Regional Center Area plan. This property is in the boundaries of the Five Points Neighborhood Association.

Street Classification

Matagorda 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

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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 setbacks that maintain neighborhood character. The 4'11"side and 2' rear setback variances **are not contrary to public interest as they do not negatively impact any surrounding properties or the general public.**

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

   If enforced, the ordinance would significantly increase physical hardship for the subject property owner. The accessory dwelling is already located in the setback area as originally constructed and it would be a hardship to relocate the structure.

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 code is to establish cohesive development that preserves the public interest. The request to reduce the side and rear setback observes the intent of the code as the property complies with other requirements in neighborhood design and similar placements are found within the neighborhood.

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.*
   The request will not injure the rights of neighboring properties as the reduction does not detract from the character of the neighborhood.

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.*
7. **The unique circumstance existing here is not the fault of the owner of the property, nor is it due to, or the result of, general conditions in the community in which it is located.**

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the setback limitations established by the Unified Development Code Section 35-310.01.

Staff Recommendation

Staff recommends **APPROVAL** of the variance in **BOA-19-10300122,** based on the following findings of fact**:**

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1. The proposed project will not detract from the community character of the community.