City of San Antonio

Legislation Details (With Text)

File #:	21-2922
Type:	Staff Briefing - Without Ordinance
In control:	Board of Adjustment
On agenda:	4/19/2021
Title:	BOA-21-10300021: A request by Jay Pruski for a 14'6" variance from the Whispering Oaks Neighborhood Conservation District maximum driveway width requirement of 19'2" to allow the total driveway width to be 33'8", located at 11402 Whisper Green. Staff recommends Denial. (Council District 9) (Azadeh Sagheb, Planner (210) 207-5407, Azadeh.Sagheb@sanantonio.gov, Development Services Department)
Sponsors:	
Indexes:	
Code sections:	
Attachments:	1. Attachments

Date	Ver.	Action By	Action	Result

Case Number:	BOA-21-10300021
Applicant:	Jay Pruski
Owner:	Linda S Peterson
Council District:	9
Location:	11402 Whisper Green
Legal Description:	Lots 44 & 45, Block 23, NCB 15083
Zoning:	"RM-4 NCD-4" Residential Mixed Whispering Oaks Neighborhood Conservation District
Case Manager:	Azadeh Sagheb, Planner

Request

A request for a 14'6" variance from the Whispering Oaks Neighborhood Conservation District maximum driveway width requirement of 19'2", as described in Section 35-335, to allow the total driveway width to be 33'8".

Executive Summary

The subject property is a corner lot located at the intersection of Whisper Green and Whisper Willow street. It is part of the Whispering Oaks Subdivision. The Whispering Oaks Neighborhood Conservation District (NDC-4) does not allow driveway widths to be greater than the garage opening width plus 20%. Based on this design standard, the maximum allowable driveway width would be 19'2". There is an existing 21'8" wide driveway facing the Whisper Willow street, which is already 2'6" more than what the NCD-4 allows. The applicant is wanting to make an additional 12' wide approach connected to the exiting driveway and faced to the Whisper

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Green street. This would create a horseshoe driveway with access on Whisper Green. Adding a new approach, the driveway width will exceed the NCD standard by 76%.

There is no sidewalk along the southern side of the property and the applicant is concerned about people walking across the front yard. During field visits, staff noticed that the horseshoe driveway is common within the neighborhood.

The west portion of subject property is located within the 100 Year Flood Plain zone and the requested variance was reviewed by the Public Works Department staff and was approved. However, obtaining a flood plain permit is required.

The Development Services Department Traffic Engineering staff reviewed the Clear Vision issue. and approved the new approach and stated that when applying for a permit, an exhibit should be submitted to show the new approach is providing sufficient clear vision.

On January 14, 2019 the applicant received approval from the Board of Adjustment to install a 6' tall solid screen fence along a portion of the front yard. The fence is located along a drainage ditch.

Code Enforcement History

No code enforcement history exists on this property.

Permit History

No permits have been processed for this property.

Clear Vision Review

DSD Traffic Engineering staff reviewed the Clear Vision issue.

Zoning History

The property was annexed into the City of San Antonio by Ordinance 39443, dated May 27, 1971, and was originally zoned as "R-6" Townhouse Residence District. The subject property was converted to the current "RM-4" Residential Mixed District with the adoption of the 2001 Unified Development Code (UDC), established by Ordinance 93881, on May 3, 2001.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"RM-4 NCD-4" Residential Mixed Whispering Oaks Neighborhood Conservation District	Residential

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use

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North	"RM-4 NCD-4" Residential Mixed Whispering Oaks Neighborhood Conservation District	Residential
South	"R-6 NCD-4" Residential Single-Family Whispering Oaks Neighborhood Conservation District	Residential
East	"RM-4 NCD-4" Residential Mixed Whispering Oaks Neighborhood Conservation District	Residential
West	"RM-4 NCD-4" Residential Mixed Whispering Oaks Neighborhood Conservation District	Residential

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the North Sector Plan and is designated as "Suburban Tier" in the future land use component of the plan. The subject property is within the boundaries of the Whispering Oaks Homeowners Association.

Street Classification

Whisper Green is classified as a local street. Whisper Willow 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 Whispering Oaks NCD standards was adopted to keep the character of the neighborhood in harmony. A variance to construct a new driveway at this location is contrary to the public interest.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
   The Whispering Oaks NCD design standards are in place to ensure that the new developments are consistent with the character of surrounding neighborhood. A literal enforcement of the ordinance would not result in unnecessary hardship.

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 NCD is to protect the integrity of the neighborhood. The spirit of the ordinance will not be observed.

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 district it is located in.

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 requested variances to have an additional driveway would not be in compliance with the Whispering Oaks NCD regulations. The proposed additional driveway would alter the essential character of the district.

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 Whispering Oaks Neighborhood Conservation District design standards regulates the driveway width and any proposed development should abide by these standards.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Whispering Oaks Neighborhood Conservation District (NCD-4) Design Standards.

Staff Recommendation

Staff recommends **Denial** of **BOA-21-10300021,** based on the following findings of fact:

1. The proposed driveway exceeds the NCD-4 design regulation, and;
2. The width of existing driveway is already wider than what the Whispering Oaks Neighborhood Conservation District (NCD-4) standards allow for.

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