



City of San Antonio

Agenda Memorandum

File Number:16-2362

Agenda Item Number: 8.

Agenda Date: 4/4/2016

In Control: Board of Adjustment

Case Number: A-16-056
Applicant: Diana Zamora
Owner: Diana Zamora
Council District: 2
Location: 918 S Mesquite
Legal Description: Lot 4, Block 14, NCB 659
Zoning: "RM-4 AHOD" Residential Mixed Airport Hazard Overlay District
Case Manager: Kristin Flores, Planner

Request

A request for 1) a two foot variance from the required five foot side setback, as described in Section 35-310.01, to allow an accessory dwelling unit to remain three feet from the side property line and 2) a two foot variance from the required five foot rear setback, as described in Section 35-310.01, to allow an accessory dwelling unit to remain three feet from the rear property line.

Executive Summary

The subject property was platted in 1909 and the home was built in 1955. The applicant previously had an accessory structure in the location of the accessory dwelling unit. When the applicant's granddaughter became pregnant the applicant converted the accessory structure into an accessory dwelling unit. The setbacks required for an accessory dwelling unit larger than those required for an accessory structure. The applicant wishes to keep the accessory dwelling unit in the same location and has requested a variance.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"RM-4 AHOD" Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"C-3R AHOD" General Commercial Restrictive Alcoholic Sales Airport Hazard Overlay District	Single-Family Dwelling

South	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling
East	“C-3R AHOD” General Commercial Restrictive Alcoholic Sales Airport Hazard Overlay District	Single-Family Dwelling
West	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the Arena District/Eastside Community Plan and currently designated Medium Density Residential in the future land use component of the plan. The subject property is located within the Denver Heights Neighborhood Association. As such, the neighborhood association was notified and asked to comment.

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 public interest is represented by side and rear setback limitations to protect property owners and to contribute to a sense of community. Staff finds that the request for an accessory dwelling unit encroaching into the side and rear setback is not contrary to the public interest. Since the accessory dwelling unit was converted from an existing structure, it is not likely to increase fire risk or cause water runoff on adjacent properties.

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

The special condition in this case was the conversion of an accessory structure into an accessory dwelling unit. A new building was not constructed thus causing no further encroachment than was previously present on the property.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

Granting the requested variance will result in substantial justice as an accessory structure was converted into a dwelling unit causing no new encroachment.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*

The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the “RM-4 AHOD” Residential Mixed Airport Hazard Overlay 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.*

Staff finds that an accessory dwelling unit within the side and rear setback is not out of character with the essential character of 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 circumstance in this case is that an accessory structure, which has been in the current location for many years, was converted into an accessory dwelling unit. This conversion requires a larger side and rear setback. Since the building has been present for many years there are not likely to be adverse effects on adjacent properties.

Alternative to Applicant's Request

The applicant could follow the guidelines for side and rear setbacks, as described in 35-310.01.

Staff Recommendation

Staff recommends **APPROVAL of variance request in A-16-056** based on the following findings of fact:

1. There is no new encroachment due to the conversion of an accessory structure to an accessory dwelling unit. 2. The accessory structure provides enough room for maintenance without trespass. 3. The accessory dwelling unit is not likely to increase water runoff or fire risk to adjacent properties