



City of San Antonio

Agenda Memorandum

File Number:16-3593

Agenda Item Number: 11.

Agenda Date: 6/20/2016

In Control: Board of Adjustment

Case Number: A-16-108
Applicant: Benjamin Winslow
Owner: Benjamin Winslow
Council District: 6
Location: 8731 Yormis Nest
Legal Description: Lot 15, Block 62, NCB 18288
Zoning: "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager: Logan Sparrow, Senior Planner

Request

A request for a 5.25 foot variance from the 20 foot rear setback, as described in Table 35-310, to allow a covered patio addition to remain 14.75 feet from the rear property line.

Executive Summary

The subject property is located at 8731 Yormis Nest, approximately 50 feet northeast of Mugga Manor Drive. The applicant is seeking a variance to allow a covered patio to remain. The "R-5" Residential Single-Family base zoning district requires a 20 foot rear setback. When the applicant hired a contractor to build the covered patio, they were under the impression that the contractor has acquired the appropriate permits. The contractor, however, did not obtain any. The covered patio encroaches only 5.25 feet into the 20 foot rear setback, and requires a 14.74 foot variance to allow the structure to remain.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

South	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
East	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
West	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the West/Southwest Plan and currently designated Suburban Tier in the future land use component of the plan. The subject property is not within the boundaries of any neighborhood association.

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, these criteria are represented by minimum setback requirements to ensure equal access to air and light and to prevent the spread of fire. The applicant is seeking only a 5.25 foot deviation from the requirement established by the Unified Development Code. Staff finds that the requested variance is not contrary to the public interest in that the addition will still be 14.75 feet from the rear property line and is not visible from the public right of way.

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

Staff finds that a literal enforcement if the setback is likely to result in unnecessary hardship in that the structure will have to be removed.

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. Considering the requested variance seeks only a 5.25 foot deviation from the requirement, a distance that is unlikely to be noticed, staff finds that the spirit of the ordinance will be observed.

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 "R-5 AHOD" Residential Single-Family 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.

It is unlikely that granting the requested variance will harm adjacent properties as the request seeks to reduce only a small portion of the rear setback. Adjacent property owners will still be protected as the structure meets the side setbacks.

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.

Had the contractor hired by the applicant secured a permit, staff could have assisted with an alternative design. The applicant was unaware that a permit was not acquired and is moving through the appropriate channels to address the setback violation.

Alternative to Applicant's Request

The applicant would need to remove that portion of the structure in violation of the rear setback.

Staff Recommendation

Staff recommends **APPROVAL of variance request in A-16-108** based on the following findings of fact:

1. The request seeks only a 5.25 foot variance from the 20 foot rear setback requirement.
2. The structure meets the side setbacks and is unlikely to harm adjacent property owners.