



City of San Antonio

Agenda Memorandum

File Number:16-4017

Agenda Item Number: 6.

Agenda Date: 7/11/2016

In Control: Board of Adjustment

Case Number: A-16-102
Applicant: Raul Nolasco
Owner: Raul and Leonor Nolasco
Council District: 3
Location: 190 Beethoven Street
Legal Description: Lot 22, Block 5, NCB 7526
Zoning: "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager: Logan Sparrow, Senior Planner

Request

A request for a 361.80 square foot variance from the maximum 619.20 square foot maximum accessory dwelling unit size, as described in Section 35-371(b), to allow an accessory dwelling unit to be 981 square feet in size.

Executive Summary

The subject property is located at 190 Beethoven Street, approximately 50 feet north of Chickering Drive. The applicant wants to add a second story accessory dwelling unit to the top of an existing garage. The Unified Development Code allows single-family residential districts to have an accessory dwelling unit, limited in size. Accessory dwelling units may be 40 percent the size of the primary home, not to exceed 800 square feet. Because covered patios are included as living space, the main home on the property is 1,548 square feet in area, per BCAD records.

1,543 x 0.40 = 619.20 - The allowed ADU size.

981.00 - The proposed ADU size.

361.80 - The variance needed to allow for the project.

The Unified Development Code provides for accessory dwelling units as a means of assisting families with maintaining their homes by securing rental income, while at the same time providing affordable housing for the elderly, single-person households, students, and other needy populations, per the Statement of Purpose.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
South	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
East	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
West	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Vacant, Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The property is not within the boundaries of any neighborhood, community, or sector plan. The subject property is not within the boundaries, or within 200 feet, of any registered 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, the public interest is represented by size limitations on accessory dwelling units. The Unified Development Code permits ADU’s as a means to secure rental income and to provide for affordable housing choices for the elderly, students, and needy populations.

Accessory dwelling units are permitted as incidental uses to the primary dwelling and, as such, are subject to strict size limitations. Because the applicant is seeking an accessory dwelling unit that is 158 percent the size of what is permitted by code, and because it grants a right well beyond what other property owners enjoy, staff finds this request to be contrary to the public interest.

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

Staff was unable to find any special condition present to warrant the granting of the requested variance. The applicant can build the structure to meet the prescribed ADU size allowances.

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

Granting the requested variance will not result in substantial justice because the proposed unit will be significantly larger than those enjoyed by other property owners in San Antonio. In the absence of any apparent hardship, staff finds that the request to build the unit to be 158 percent of that which is allowed will not honor the spirit of the ordinance.

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-6 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.

The construction of such a large accessory dwelling unit, especially one built above an existing garage, would establish a very large structure in the rear yard. Allowing the unit to be so large may place the property out of character with others in 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.

Staff was unable to find any unique circumstance that warrants the granting of the requested variances. The property owner could easily build the accessory dwelling unit to meet the required size limitations established by the Unified Development Code.

Alternative to Applicant’s Request

The applicant could design the ADU to meet all requirements established by the Unified Development Code.

Staff Recommendation

Staff recommends **DENIAL of variance request in A-16-102** based on the following findings of fact:

1. There are no special conditions present to warrant granting the requested variance.
2. The requested variance grants a privilege well beyond that enjoyed by other property owners in the City.