



City of San Antonio

Agenda Memorandum

File Number: 17-1139

Agenda Item Number: 4.

Agenda Date: 1/9/2017

In Control: Board of Adjustment

Case Number: A-17-036
Applicant: Michael Duffey
Owner: Michael & Ariana Duffey
Council District: 1
Location: 201 Delaware Street
Legal: Lot 1, Block 2, NCB 3004
Description:
Zoning: "R-6 H AHOD" Residential Single-Family Historic Airport
Hazard Overlay District
Case Manager: Margaret Pahl, AICP, Senior Planner and Lauren Sage,
Historic Preservation Specialist

Request

An appeal of the Historic Preservation Officer's denial regarding an application for a Certificate of Appropriateness to allow the installation of 24 solar panels on the left slope of a hipped roof

Applicable Code References

- (a) UDC 35-608. Certificate of Appropriateness- Generally. In reviewing an application for a certificate of appropriateness, the Historic and Design Review Commission (HDRC) shall consider the current needs of the property owner. The HDRC shall also consider whether the plans will be reasonable for the property owner to carry out. Where the City Council has adopted specific design guidelines for the district, no application shall be recommended for approval unless the proposed application is consistent with the design guidelines.
- (b) UDC 35-481. Appeals to the Board of Adjustment. The Board of Adjustment is empowered to consider an appeal of a decision by an administrative official, in this case, the Historic Preservation Officer (HPO). The appeal must be submitted by a person aggrieved the decision. The appeal must include details regarding the incorrect interpretation made by the administrative official, along with any supporting evidence. The Board must consider the appeal at a quasi-judicial public hearing, pursuant to UDC Section 35-404. Their authority allows the Board to affirm, modify or reverse the HPO's determination from which the appeal is taken and make the correct order, requirement, decision or

determination, with the concurring vote of 75% of its members.

Background and Interpretation

The proposal to install solar panels at 201 Delaware has been heard by the Historic and Design Review Commission (HDRC) four individual times, each time included a different numbers of panels facing the public right of way.

On September 16, 2016, OHP received an application for solar panels to be heard on October 5, 2016, by the HDRC. The request was to *install 24 solar panels on the west slopes* of the hipped roof, so all panels would be facing Staffel Street, after finding out that installation on the eastern slope would not meet his needs. OHP Staff reviewed the request and made a recommendation of denial based on the *Historic Design Guidelines, Chapter 3, Guidelines for Additions*, UDC Section 35-608, and the specifics of the case, including specific roof form, location within the Historic District and effects on neighboring historic structures.

OHP staff found that though the applicant explored other options to minimize the visual impact of the solar panels, the *Guidelines* are clear that panels should not negatively impact the right-of-way, and the new proposal was not consistent with the *Historic Design Guidelines, Chapter 3, Guidelines for Additions 6.c* and recommended denial. OHP staff visited the site on September 26, 2016, and found that the house is on a corner lot, interior to the historic district, and that the panels would be mounted on a continuous long portion of a hipped roof and would be visible from the street. Because of these conditions, OHP staff found that the panels would be visible from the public right-of-way on the front and side of the structure and would have a visual impact to the public right-of-way and the district.

On October 5, 2016, the HDRC hearing was held according to proper Rules and Procedures. The commission reviewed staff's recommendation and found that the number of panels (24) in the proposed configuration would negatively impact the public right-of-way and the character of the historic district. A motion was made to deny the request based on the findings of fact. The commission voted unanimously in favor of the motion.

On July 14, 2016, OHP received the application to be heard on August 3, 2016, by the HDRC. The applicant requested to *install 9 of the 20 solar panels on the west slope*, facing Staffel Street. OHP staff reviewed the application based on the *Historic Design Guidelines*, UDC 35-608, and the specifics of the case. At this time OHP staff found that though this proposal was more consistent with the *Guidelines*, the *Guidelines* are clear that panels should not negatively impact the right-of-way, and that no specifics of the case changed since the previous request. The proposal was not consistent with the *Guidelines*, and OHP staff recommended denial of the request as submitted.

On August 3, 2016, the HDRC hearing was held according to proper Rules and Procedures. The commission reviewed OHP staff's recommendation and found that the panels proposed on the eastern slope would not negatively impact the district. The commission moved to approve the panels proposed on the east roof slope, and deny the panels proposed on the west roof slope. The commission voted unanimously in favor of the motion.

On May 25, 2016, OHP received the application to be heard on June 15, 2016, by the HDRC. The applicant requested to *install 13 of the 24 solar panels on the west slope*, facing Staffel Street.

As mentioned previously, OHP staff reviewed the application based on the *Historic Design Guidelines*, UDC 35-608, and the specifics of the case. OHP staff found that though this proposal was more consistent with the *Guidelines*, the *Guidelines* are clear that panels should not negatively impact the right-of-way, and that no specifics of the case changed since the previous request. The proposal was not consistent with the *Guidelines*, and OHP staff recommended denial of the request as submitted.

On June 15, 2016, the HDRC hearing was held according to proper Rules and Procedures. The commission

reviewed OHP staff's recommendation and found that the 13 panels still negatively impacted the public right-of-way and the conditions of the case have not changed. A motion was made to deny the request based on the findings of fact. Six of the seven commissioners voted in favor of the motion.

On March 23, 2016, OHP received the application and the case was heard on April 20, 2016, by the HDRC. The request was for approval to install 24 solar panels on the west and east slopes of the hipped roof. OHP Staff reviewed the request and made a recommendation based on the *Historic Design Guidelines, Chapter 3, Guidelines for Additions*, UDC Section 35-608, and the specifics of the case.

OHP staff found the applicant's request to *install 20 of the 24 panels on the west slope*, facing Staffel Street, not consistent with the *Historic Design Guidelines, Chapter 3, Guidelines for Additions 6.c* and recommended denial. OHP staff visited the site on April 13, 2016, and found that the house is on a corner lot, interior to the historic district, and that the panels would be mounted on a continuous long portion of a hipped roof and would be visible from the street. Because of these conditions, OHP staff found that the panels would be visible from the public right-of-way on the front and side of the structure and would have a visual impact to the public right-of-way and the district.

On **April 20, 2016**, the HDRC hearing was held according to the HDRC Rules and Procedures. The commission reviewed OHP staff's recommendation and found that the number of panels (20) panels negatively impacted the public right-of-way and the character of the historic district. The commission also discussed with the applicant other location options for the panels. The commission suggested exploring putting solar panels on the two existing accessory structures or exploring two other CPS programs including investing in panels and installing them in a solar farm or leasing space on other structures not in historic districts. The applicant was not in favor of the alternatives. A motion was made to deny the request based on the findings of fact. Six of the seven commissioners voted in favor of the motion for denial.

Staff Recommendation

Staff recommends that the Board of Adjustment uphold the Historic Preservation Officer's decision to deny the installation of 24 solar panels on the west slope of the roof facing the street at 201 Delaware.