



City of San Antonio

Agenda Memorandum

File Number:17-2675

Agenda Item Number: 6.

Agenda Date: 4/17/2017

In Control: Board of Adjustment

Case Number: A-17-082
Applicant: Steven Catalani
Owner: Steven Catalani and Stefanie Howton
Council District: 9
Location: 16903 Happy Hollow
Legal: Lot 1, Block 21, NCB 14835
Description:
Zoning: "R-6 MLOD AHOD ERZD" Residential Single-Family
Military Lighting Overlay Edwards Recharge Zone Overlay
Airport Hazard Overlay District
Case Manager: Oscar Aguilera, Planner

Request

A request to a 5 foot variance from the 5 foot side setback to allow an accessory structure on the side property line, as described in Section 35-370(b)(1).

Executive Summary

The subject property is located within the Oak Haven Heights Unit 2 Subdivision. The lot includes an underground swimming pool in the back yard which makes it difficult to locate an accessory structure elsewhere on the lot. The applicant is seeking a variance to allow a detached accessory building in the side property line. The accessory structure is currently set back at the property line. The accessory structure building measures less than 300 square feet. Per the UDC, the required side and rear setback for an accessory structure is five feet.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-6 MLOD AHOD ERZD" Residential Single-Family Military Lighting Overlay Airport Hazard Overlay Edwards Recharge Zone District	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 MLOD AHOD ERZD” Residential Single-Family Military Lighting Overlay Airport Hazard Overlay Edwards Recharge Zone District	Single-Family Dwelling
South	“R-6 MLOD AHOD ERZD” Residential Single-Family Military Lighting Overlay Airport Hazard Overlay Edwards Recharge Zone District	Single-Family Dwelling
East	“R-6 MLOD AHOD ERZD” Residential Single-Family Military Lighting Overlay Airport Hazard Overlay Edwards Recharge Zone District	Single-Family Dwelling
West	“R-6 MLOD AHOD ERZD” Residential Single-Family Military Lighting Overlay Airport Hazard Overlay Edwards Recharge Zone District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The property is within North Sector Plan and designated as Suburban Tier. The subject property is not located within the boundaries any neighborhood association.

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 setback limitations to protect property owners and eliminate risks for health and safety hazard for surrounding properties, of which the applicant has addressed through fire rating. As the structure in its current location will not be contrary to public interest since it will not pose a fire hazard or visibility hazard to the other residents or drivers in the area. As the structure is made out of metal material.

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

The property has several mature trees within the property’s yard and a swimming pool that imposes a limitation of building size to construct a reasonably sized accessory building. A literal enforcement would result in the applicant not being permitted to have an area of storage on the property.

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

The spirit of the ordinance represents the intent of the requirement. The applicant has fire rated the building and provided room for maintenance without trespassing on the neighboring property.

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 MLOD AHOD ERZD” Residential Single-Family Military Lighting Overlay Airport Hazard Overlay Edwards Recharge Zone 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 accessory building is detached and located in the side of the property 28 feet from the street edge. The applicant has fire rated the building. The accessory building does not create a fire hazard to other neighbors or a visibility obstruction to passing traffic and the structure does not detract from the overall character of 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.

The applicant’s property has a considerable slope, is a corner lot, and has several mature trees within the property’s yard, and a swimming pool that imposes a limitation of building size to construct a reasonably sized accessory building. A literal enforcement would result in the applicant not being permitted to have an area of storage on the property, removing the natural shade that the mature trees provide to cool off the house, and impacting the animal habitat of the area. Therefore, not approving the variance will create an unnecessary hardship for the applicant and the community.

Alternative to Applicant’s Request

The applicant needs to reconstruct the accessory building with the 5 foot rear and side setback to come into compliance with the Unified Development Code.

Staff Recommendation

Staff recommends **APPROVAL of A-17-082** based on the following findings of fact:

1. The accessory building has been fire rated to prevent any potential fire hazard and does allow for maintenance without trespassing;
2. There are several mature trees and underground swimming pool which prohibit relocating the accessory structure.