



City of San Antonio

Agenda Memorandum

File Number:17-4686

Agenda Item Number: 7.

Agenda Date: 8/21/2017

In Control: Board of Adjustment

Case Number: A-17-156
Applicant: Esmeralda Munoz
Owner: Esmeralda and Manuel Munoz
Council District: 5
Location: 2324 Guadalupe Street
Legal: Lot N. 75 ft. of 1A, 1B, 2A, 2B, Block 2, NCB 2448
Description:
Zoning: "C-2 AHOD" Commercial Airport Hazard Overlay District
Case Manager: Oscar Aguilera, Planner

Request

A request for 1) a 16 foot variance from the 30 foot rear setback, as described in Sec. 35-310.01, to allow a commercial building 14 feet from the rear property line and 2) a 5 foot variance to the "Type B" 15 foot bufferyard along the rear property line, as described in section 35-510.

Executive Summary

The subject property includes 0.1801 acres and the property owner was cited by code enforcement in 2016 for doing work on a structure without a permit. According to available resources, the structure was constructed sometime in 2014 without a permit. The property is zoned "C-2" and abuts a residentially zoned lot. Therefore, the UDC requires a 30 foot setback and a 15 foot bufferyard along the rear property line. The applicant would like to keep the building in place, 14 feet from the rear property line.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"C-2 AHOD" Commercial Airport Hazard Overlay District	Tire Shop

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
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North	“C-2 AHOD” Commercial Airport Hazard Overlay District and “C-3 NA AHOD” General Commercial Non-Alcoholic Airport Hazard Overlay District	Auto-shop, Bakery, Church,
South	“R-4 AHOD” Single-Family Residential Airport Hazard Overlay District	Vacant lots
East	“C-2 AHOD” Commercial Airport Hazard Overlay District	Vacant, Restaurant
West	“C-2 AHOD” Commercial Airport Hazard Overlay District	Salon, Vacant lots

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the Guadalupe Westside Community Plan and currently designated as Low Density Mixed Use in the future land use component of the plan. The subject property is located within the boundaries of the Guadalupe Avenida Neighborhood Association and they were 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.*

In this case, the public interest is represented by a 30 foot rear setback, and by the quantity of plantings required in a bufferyard to separate incompatible uses. The tire shop however is surrounded by similar uses and the adjacent residential lots are used as a parking lot. Therefore the requested 14 foot variance from the rear property line and a five foot variance to the “Type B” 15 foot bufferyard are not contrary to the public interest.

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

Literal enforcement of the prescriptive planting scheme would likely result in an unnecessary hardship. The lot is only 0.1801 acres in size and the applicant is required to provide onsite parking. Therefore the enforcement of the ordinance would result in the owner of the property relocating the building elsewhere on the property, reconfiguring the site plan and making the project not fixable. The existing building already encroaches in the rear 15 feet of the property, making it impossible to meet the bufferyard requirement.

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

In this case, the rear setback and the bufferyard intent are accomplished by a 14 foot setback and a five foot variance to the “Type B” 15 foot bufferyard. Since, the adjacent rear property is currently utilized as parking, and not residential use, the spirit of the ordinance is met.

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 variances will not authorize the operation of a use on the subject property other than those specifically permitted in the “C-2 AHOD” Commercial 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.*

Since the rear adjacent lots are vacant and the structure has been erected since 2014. The requested variance to reduce the landscape depth and setback in the rear will be unnoticeable to the surrounding district.

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 is that the project is located adjacent to a vacant residential lot used as a parking lot. The size of the property and the enforcement of the ordinance would result in the owner of the property relocating the building elsewhere on the property, making the property difficult to develop.

Alternative to Applicant's Request

Denial of the variance request would result in the owner having to meet the 30 foot rear setback and 15 rear bufferyard.

Staff Recommendation

Staff recommends **Approval of the requested rear setback and bufferyard variance in A-17-156** based on the following findings of fact:

1. The intent of the rear setback and bufferyard is to mitigate impacts which will not be generated by the use since the residential lot is vacant and used as a parking lot; and
2. If enforced, the bufferyard and setback would result in the demolition of the existing building.