



City of San Antonio

Agenda Memorandum

File Number:17-5684

Agenda Item Number: 5.

Agenda Date: 10/16/2017

In Control: Board of Adjustment

Case Number: A-17-188
Applicant: Jeffry Post
Owner: Jeffry Post
Council District: 1
Location: 946 W. Lullwood Avenue
Legal: Lots 47 and 48, Block 7, NCB 3106
Description:
Zoning: "R-6 NCD-5 AHOD" Residential Single-Family Beacon Hill
Neighborhood Conservation Airport Hazard Overlay District
Case Manager: Logan Sparrow, Principal Planner

Request

A request for 1) a ten percent variance from the limitation that an accessory dwelling unit not exceed 40 percent the size of the primary dwelling, as described in Section 35-370(b)(1), to allow an accessory dwelling unit to be 50 percent the size of the main dwelling.

Executive Summary

The subject property is located at the southeast corner of the West Lullwood Avenue and Grant Avenue intersection. Per Bexar County tax records, both the primary dwelling and the accessory dwelling unit, originally built as a garage, were built in 1925 - 13 years prior to the adoption of the first Unified Development Code. Recently, the current owner has set about renovating both structures. The grandfathered status of the accessory dwelling unit was lost because of the substantial renovation undertaken by the current owner. Whenever investment into renovation exceeds 50 percent of the value of the building, all current development codes are applicable. The primary dwelling measures 732 square feet, and the accessory structure is 360 square feet. Per code, the accessory dwelling unit would be limited to 293 square feet. The accessory dwelling unit meets the rest of the NCD design requirements including maximum height, location, and external building materials.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
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“R-6 NCD-5 AHOD” Residential Single-Family Beacon Hill Neighborhood Conservation Airport Hazard Overlay District	Single-Family Dwelling
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Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 NCD-5 AHOD” Residential Single-Family Beacon Hill Neighborhood Conservation Airport Hazard Overlay District	Single-Family Dwelling
South	“R-6 NCD-5 AHOD” Residential Single-Family Beacon Hill Neighborhood Conservation Airport Hazard Overlay District	Single-Family Dwelling
East	“R-6 NCD-5 AHOD” Residential Single-Family Beacon Hill Neighborhood Conservation Airport Hazard Overlay District	Park
West	“R-6 NCD-5 AHOD” Residential Single-Family Beacon Hill Neighborhood Conservation Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is within the boundaries of the Midtown Neighborhood Plan and currently designated Low Density Residential in the future land use component of the plan. The subject property is within the Beacon Hill Neighborhood Association. As such, 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.

The public interest is represented by limitations on accessory structure size to prevent each single-family lot from having two houses. The applicant wishes to convert what was originally built as a garage into an accessory dwelling unit. The unit will exceed the size limitation by 63 square feet. Because the applicant is not proposing to enlarge the footprint of the structure, which has remained in the current footprint for 92 years, staff finds that the request is not contrary to the public interest.

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

The special condition present in this case is that the structure has existed in the current footprint since 1925. A literal enforcement of the ordinance would require that either the primary dwelling or the accessory unit be shrunk to accommodate the 40 percent size limitation. Staff finds that this would be an unnecessary hardship.

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

The spirit of the ordinance is the intent of the requirements rather than the strict letter of the law. The intent of the limitation is to prevent each single-family lot from having two full-sized homes. As the proposed accessory dwelling unit is only 360 square feet, staff finds that the spirit of the ordinance will be upheld.

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 NCD-5 AHOD” Residential Single-Family Beacon Hill Neighborhood Conservation 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.

As the structure has been in the same configuration for 92 years, staff finds that the variance request is unlikely to harm adjacent property owners.

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 present in the case is that the structure is being renovated, but not enlarged. Because there is no expanded footprint, it is difficult to establish how the request could harm adjacent owners or detract from the character of the community.

Alternative to Applicant’s Request

Denial of the variance request would result in the owner having to meet the requirements for maximum accessory dwelling unit size.

Staff Recommendation

Staff recommends **APPROVAL of the requested variance in A-17-188**, based on the following findings of fact:

1. The structure has been in the current footprint for 92 years without any incidents; and;
2. The applicant is renovating the structure and not proposing any expansion.