



City of San Antonio

Agenda Memorandum

File Number:17-6272

Agenda Item Number: 9.

Agenda Date: 11/20/2017

In Control: Board of Adjustment

Case Number: A-17-196
Applicant: Amelia Gauna
Owner: Amelia and John Gauna
Council District: 5
Location: 2106 Bronte Street
Legal: Lot 45, Block 5, NCB 8608
Description:
Zoning: "MF-33 AHOD" Multi-Family Airport Hazard Overlay District
Case Manager: Oscar Aguilera, Planner

Request

A request for a three foot variance from the five foot side setback, as described in Section 35-310.01, to allow a garage to be two feet from the side property line.

Executive Summary

The subject property is located at 2106 Bronte Street. The applicant is seeking a variance to build a garage two feet from the side property line. According to the applicant, the reason for the variance request is that if the garage is built five feet from the property line there will be no space to park the vehicle. The structure will have gutters that will prevent the water drainage from going into neighboring properties.

Subject Property Zoning/Land Use

| Existing Zoning | Existing Use |
|---|------------------------|
| "MF-33 AHOD" Multi-Family Airport Hazard Overlay District | Single-Family Dwelling |

Surrounding Zoning/Land Use

| Orientation | Existing Zoning District(s) | Existing Use |
|-------------|---|------------------------|
| North | "MF-33 AHOD" Multi-Family Airport Hazard Overlay District | Single-Family Dwelling |

| | | |
|-------|---|------------------------|
| South | "MF-33 AHOD" Multi-Family Airport Hazard Overlay District | Single-Family Dwelling |
| East | "MF-33 AHOD" Multi-Family Airport Hazard Overlay District | Single-Family Dwelling |
| West | "MF-33 AHOD" Multi-Family Airport Hazard Overlay District | Single-Family Dwelling |

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the Guadalupe Westside Community Plan and designated as Low Density Residential in the future land use component of the plan. The subject property is not located within the boundaries of a 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 minimum setbacks that help to establish uniform and safe development within the City of San Antonio. The proposed garage meets the front setback requirement. Allowing the garage to be two feet from the side property line will leave room for maintenance. The applicant is aware that the structure will need to be fire-rated.

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

A literal enforcement of the ordinance would result in the applicant not being able to park a car in the garage.

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 code, rather than the strict letter of the law. In this case, the intent of the setback is to allow room for maintenance and to provide safe separation. A two foot setback would satisfy this intent. The spirit of the ordinance is observed in that the garage meets front setbacks, will not pose a fire risk once fire-rated, and will not drain water onto adjacent properties.

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 "MF-33 AHOD" Multi-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.*

Adjacent properties are unlikely to be negatively affected by the requested changes in that the proposed design will consist of fire retardant material and the garage will not drain water onto the adjacent properties. There are several properties within the community that include a carport on or near the side property line. The request would not be out of character of the 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 applicant will not have space to build a garage to accommodate his vehicle if the five foot setback is enforced. The plight of the owner is not merely financial in nature.

Alternative to Applicant's Request

The applicant would have to comply with the side setback.

Staff Recommendation

Staff recommends **APPROVAL of the requested variance A-17-196** based on the following findings of fact:

1. The garage will not present a fire risk to adjacent properties, nor will it drain water onto adjacent properties.
2. The design is not out of character within the district.