



City of San Antonio

Agenda Memorandum

File Number:17-6522

Agenda Item Number: 7.

Agenda Date: 12/4/2017

In Control: Board of Adjustment

Case Number: A-17-213
Applicant: Mariana Munante
Owner: Lima Square, LLC
Council District: 2
Location: 601 and 603 Coleman Street
Legal: Lot 37, Block 1, NCB 12831
Description:
Zoning: "R-6 CD" Residential Single Family District with Conditional Use for a Duplex
Case Manager: Logan Sparrow, Principal Planner

Request

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

Executive Summary

The subject property is located at 601 and 603 Coleman Street, at the northeast corner of the Coleman Street and Bee Street intersection. The property was recently rezoned by the applicant to allow for two dwelling units on the lot. The applicant hired a contractor to begin construction. The contractor did not identify the property line appropriately, and has placed the foundations too close to the side property line. The foundations are angled, so portions of each meet the five foot side setback. At its nearest point, the closest portion of the foundation is located two feet from the side property line.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-6 CD" Residential Single Family District with Conditional Use for a Duplex	Vacant, Proposed Duplex

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
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North	“R-6” Residential Single-Family District	Single-Family Dwelling
South	“R-6” Residential Single-Family District and “R-6 CD” Residential Single Family District with Conditional Use for a Duplex	Single-Family Dwelling, Duplex
East	“R-6 CD” Residential Single Family District with Conditional Use for a Duplex	Duplex
West	“R-6 CD” Residential Single Family District with Conditional Use for a Duplex	Vacant, Proposed Duplex

Comprehensive Plan Consistency/Neighborhood Association

The subject property is within the boundaries of the Government Hill Neighborhood Plan and currently designated Low Density Residential in the future land use component of the plan. The subject property is located within the boundaries of the Government Hill Alliance 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 served by setbacks, which help to provide consistent development within the City of San Antonio. The requested variance most directly affects the property to the west. The applicant also owns the property to the west. Because the person most-directly affected by the variance is the owner of the property, and because the request will have minimal impact on other property owners, 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 contractor incorrectly identified the property line, and has placed the foundations too close to the side property line. Further, many homes within Government Hill have reduced setbacks. Lastly, only portions of the foundations, as currently placed, are violating the setback. A literal enforcement of the ordinance may result in 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 code, rather than the strict letter of the law. The intent of the code is to provide for consistent development and to establish room for maintenance, and to reduce the threat of fire spread. The structure still provides ample room for fire separation and maintenance. Granting the requested variance will result in substantial justice.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the zoning district in which the variance is located.*

The variance will not authorize the operation of a use other than those uses specifically authorized by the “R-6 CD” Residential Single Family District with Conditional Use for a Duplex zoning.

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.

In that other homes within the neighborhood enjoy reduced setbacks, and because only portions of the structures are located within restricted setbacks, staff finds that the essential character of the community is unlikely to be negatively affected.

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 this case is that the contractor failed to identify the property line appropriately; this request is not merely financial in nature, nor is it the fault of the owner of the property.

Alternative to Applicant's Request

The applicant would need to adhere to the setbacks as described in Section 35-310.01.

Staff Recommendation

Staff recommends **APPROVAL of A-17-213** based on the following findings of fact:

1. The requested variance is not the fault of the owner of the property; and
2. The structure will need to be fire-rated, and will still provide room for maintenance.