



City of San Antonio

Agenda Memorandum

File Number:18-1028

Agenda Item Number: 5.

Agenda Date: 12/18/2017

In Control: Board of Adjustment

Case Number: A-17-210
Applicant: Cesar Galvez
Owner: Cesar Galvez
Council District: 6
Location: 6515 Tezel Road
Legal: Lot 1, Block 9, NCB 18484
Description:
Zoning: "C-1 AHOD" Light Commercial Airport Hazard Overlay
District and "C-3R AHOD" General Commercial Restrictive
Alcoholic Sales Airport Hazard Overlay District
Case Manager: Logan Sparrow, Principal Planner

Request

A request for a 25 percent variance from the requirement that a building located in the "C-1" zone have at least 30 percent of the façade dedicated to windows, as described in Section 35-310.01, to allow a building to have five percent of the façade dedicated to windows.

Executive Summary

The subject property is located at 6515 Tezel Road, immediately north of the intersection of Tezel Road and Old Tezel Road. The property owner is seeking to develop a church at the subject property. Due to the nature of the proposed development, the applicant had concerns about dedicating 30 percent of the front façade to window openings. According to the application this standard would require a significant portion of stained glass, which is costly, and the owner wishes to reduce the amount needed for the church use. The other option would be to use regular windows, but the applicant is concerned that those would detract from church operations.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
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“C-1 AHOD” Light Commercial Airport Hazard Overlay District and “C-3R AHOD” General Commercial Restrictive Alcoholic Sales Airport Hazard Overlay District	Vacant, Proposed Church
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Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
South	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
East	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
West	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is within the boundaries of the Northwest Community Plan and currently designated Low Density Residential and Park/Open Space in the future land use component of the plan. The subject property is located within 200 feet of the boundaries of the Great Northwest 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 design elements intended to create a cohesive streetscape along light commercial corridors. The applicant is not proposing any window front retail operation, but is rather intending to develop the property as a church. Staff finds that the requirement for window dedication would be out of place on the proposed development. As such, 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 the type of the proposed development. The applicant has stated that the church use would not benefit from the window dedication and that the operation of a church may be harmed by it. Staff finds that the proposed use of the property constitutes a special condition that warrants the variance.

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 create a window shopping experience along light commercial corridors. That intent does not translate to the proposed church use. Staff finds that granting the 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 in the “C-1 AHOD” Light Commercial Airport Hazard Overlay District and “C-3R AHOD” General Commercial Restrictive Alcoholic Sales 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.*

It is unlikely that the variance will harm adjacent property in that there are no adjacent commercial properties. The subject property is a stand-alone commercial use, surrounded entirely by single-family development.

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 the type of proposed development. This is not the fault of the owner of the property, nor is this issue merely financial in nature.

Alternative to Applicant’s Request

The applicant would need to adhere to the window dedication requirements set forth in Section 35-310.01.

Staff Recommendation

Staff recommends **APPROVAL of A-17-210** based on the following findings of fact:

1. The intent of the code was never meant to apply to church uses; and
2. Adjacent property is unlikely to be harmed by the variance.