



City of San Antonio

Agenda Memorandum

File Number:18-2418

Agenda Item Number: 5.

Agenda Date: 3/19/2018

In Control: Board of Adjustment

Case Number: A-18-040
Applicant: Joseph Garcia
Owner: Joseph Garcia
Council District: 2
Location: 906 East Crockett Street
Legal: Lot 8, Block 8, NCB 583
Description:
Zoning: "RM-4 H AHOD" Residential Mixed Dignowity Hill
Historic Airport Hazard Overlay District
Case Manager: Dominic Silva, Planner

Request

A request for 1) a special exception, as described in Section 35-514, to allow a six foot and six inch tall predominately open fence in the front yard and 2) a request for a special exception, as described in Section 35-514, to allow a six foot and six inch tall solid screen fence in a portion of the front yard of the property and 3) a two foot and eleven inch variance from the three foot side setback, as described in Section 35-370, to allow a detached patio cover to be one inch from the side property line.

Executive Summary

The subject property is located at 906 East Crockett Street, 92 feet east of North Mesquite Street. The applicant has constructed a six foot six inch predominately open fence in the front along with a six foot six inch privacy fence on the east property line for added security due to repeated drug trafficking complaints to the property east of the applicant, and a rear detached patio cover one inch from the side property line.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"RM-4 H AHOD" Residential Mixed Dignowity Hill Historic Airport Hazard Overlay District	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"RM-4 H AHOD" Residential Mixed Dignowity Hill Historic Airport Hazard Overlay District	Single-Family Dwelling, Duplex
South	"RM-4 H AHOD" Residential Mixed Dignowity Hill Historic Airport Hazard Overlay District	Single-Family Dwelling
East	"RM-4 H AHOD" Residential Mixed Dignowity Hill Historic Airport Hazard Overlay District	Single-Family Dwelling
West	"RM-4 H AHOD" Residential Mixed Dignowity Hill Historic Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is within the boundaries of the Dignowity Hill Neighborhood Plan and currently designated as Low Density Residential in the future land use component of the plan. The subject property is located within the boundaries of the Dignowity Hill Neighborhood Association. As such, they were notified and asked to comment.

Criteria for Review

According to Section 35-482(h) of the UDC, in order for a special exception to be granted, the Board of Adjustment must find that the request meets each of the five following conditions:

A. The special exception will be in harmony with the spirit and purpose of the chapter.

The UDC states the Board of Adjustment can grant a special exception for a fence height modification up to eight feet. The additional fence height is intended to provide safety, security, and privacy of the applicant. The additional fence height is intended to add additional security for the applicant's family. If granted, this request would be in harmony with the spirit and purpose of the ordinance.

B. The public welfare and convenience will be substantially served.

In this case, these criteria are represented by maximum fence heights to protect home owners, while promoting a sense of community. A six foot six inch predominately open fence along with the six foot six inch privacy fence was built along the east property line to provide additional security for the applicant's family. Both fence heights will serve to provide increased privacy and security of the property. This is not contrary to the public interest.

C. The neighboring property will not be substantially injured by such proposed use.

Both fences will create enhanced security for the subject property and is highly unlikely to injure adjacent properties. Further, both fences do not obscure the neighboring property's vision from their driveway.

D. The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought.

The fencing does not detract from the character of the neighborhood. The Historic and Design Review Commission approved the applicants request due to the location of the home and the fact that the changes are reversible.

E. The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district.

The property is located within the “RM-4 H AHOD” Residential Mixed Dignowity Hill Historic Airport Hazard Overlay District and permits the current use of a single-family home. The requested special exception will not weaken the general purpose of the district.

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 setbacks to ensure safe development within the City of San Antonio. The applicant’s request to reduce the side setback to one inch is contrary to the public interest in that it fails to provide adequate room for long-term maintenance of the structure.

Staff recommends an alternate variance to allow the patio cover to be two feet from the side property line. This alternative would satisfy the applicant’s need for a patio cover, and would provide space to maintain the structure and allow proper rainwater runoff. The Office of Historic Preservation approved the applicants request due to the location of the home and the fact that the changes are reversible but has stipulated that the patio cover should meet the required setbacks.

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

Staff is unable to establish any special condition that warrants reducing nearly the entire setback. Had the applicant applied for a permit, staff could have advised alternative designs that met the code, or required a lesser 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. Staff finds that the request fails to meet the intent of the code as the patio cover provides no room for adequate maintenance of the structure.

Staff finds that an alternate request to allow the patio cover to be two feet from the side property line does observe the intent of the code as it provides for adequate space for maintenance of the structure.

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 “RM-4 H AHOD” Residential Mixed Dignowity Hill Historic 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.

While the patio cover is designed such that rainwater runoff is not a concern for the applicant’s property, the structure is still located too near the shared property line and the gutter drainage is located directly above the property line. Setbacks provide fair and equal access to air and light, and staff finds that the patio cover, as designed, could present a negative impact on the adjacent property.

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.*

Staff finds that variance request is likely financial in nature. Had the applicant sought a permit, they would have been advised on alternative designs that either met the setback, or met the intent of the setback.

Alternative to Applicant's Request

Without the requested special exception and variance, the six feet and six inch tall fence and the detached rear patio cannot remain as built.

Staff Recommendation

Staff recommends **APPROVAL** of the requested special exception in A-18-040 based on the following findings of fact:

1. The six foot six inch predominantly open fence and six feet and six inch solid fence in the front yard has been approved by the Historic and Design Review Commission, and;
2. The predominantly open/solid fence creates enhanced security for the applicant's family.

Staff recommends **DENIAL with an alternate recommendation of the requested variance** based on the following findings of fact:

1. The rear patio cover, as constructed, fails to provide adequate room for maintenance and fails to maintain rainwater runoff within the applicant's property, and;
2. A two foot side setback would still allow enough for a patio cover and would provide adequate room to maintain it as well as provide suitable rainwater runoff.