



# City of San Antonio

## Agenda Memorandum

**File Number:**18-2878

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**Agenda Item Number:** 10.

**Agenda Date:** 4/16/2018

**In Control:** Board of Adjustment

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**Case Number:** A-18-081  
**Applicant:** Richard Hinojosa  
**Owner:** Richard Hinojosa  
**Council District:** 2  
**Location:** 434 Pershing Avenue  
**Legal:** Lot 17, 18, and 19, Block 1, NCB 6524  
**Description:**  
**Zoning:** "R-4 NCD-6 AHOD" Single-Family Residential Mahncke  
Park Neighborhood Conservation Airport Hazard Overlay  
District  
**Case Manager:** Debora Gonzalez, Senior Planner

### **Request**

A request for a 19.55 foot variance from the required 31.19 foot median blockface front setback, as described in the Mahncke Park Neighborhood Conservation District design guidelines, to allow a new residential unit to be 11.64 feet from the property line.

### **Executive Summary**

The subject property is located at 434 Pershing Avenue, approximately 450 feet East of North New Braunfels Avenue. The applicant is building a single-family home on the subject property, and seeking a variance to allow the house to be 11.64 feet from the front property line. The subject property is located within the Mahncke Park Neighborhood Conservation District, which requires that the front setback meet the median setback along the blockface. The applicant applied for a building permit on October 30, 2017. Development Services Department found the proposed project to be in compliance and issued a building permit for construction of the home on November 29, 2017. Both the Plan Review Section and the Zoning Section reviewed the proposed project, and both missed the front setback requirement. Later, staff received a complaint about the project and immediately verified if the project was out of compliance. During this review, it was determined that the front setback is out of compliance with the Neighborhood Conservation District design requirements. By the time staff identified the error, the foundation had been poured, framing completed, as well as some plumbing work.

### **Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
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“R-4 NCD-6 AHOD” Single-Family Residential Mahncke Park Neighborhood Conservation Airport Hazard Overlay District	Under construction - Single-Family Dwelling
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### **Surrounding Zoning/Land Use**

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“R-4 NCD-6 AHOD” Residential Single-Family Mahncke Park Neighborhood Conservation Airport Hazard Overlay District	San Antonio Country Club
South	“R-4 NCD-6 AHOD” Residential Single-Family Mahncke Park Neighborhood Conservation Airport Hazard Overlay District	Single-Family Dwelling
East	“R-4 NCD-6 AHOD” Residential Single-Family Mahncke Park Neighborhood Conservation Airport Hazard Overlay District	Single-Family Dwelling
West	“R-4 NCD-6 AHOD” Residential Single-Family Mahncke Park Neighborhood Conservation Airport Hazard Overlay District	Single-Family Dwelling

### **Comprehensive Plan Consistency/Neighborhood Association**

The subject property is within the boundaries of the Mahncke Park Neighborhood Plan and currently designated Urban Single Family Residential in the future land use component of the plan. The subject property is located within the Mahncke Park 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 defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by setbacks maintain neighborhood character. Allowing such a large deviation may harm the public interest.

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

A literal enforcement would result in the property owner meeting the median setback. The Board may consider the staff error as a special condition warranting the reduced front setback.

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. The request to reduce the front setback does not observe the intent of the code.

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-4 NCD-6 AHOD” Single-Family Residential Mahncke Park 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.*

Staff finds that allowing for the reduction may detract from the character of the neighborhood.

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 issue is not the fault of the owner of the property, nor is it due to, or the result of, general conditions in the community in which it is located.

#### **Alternative to Applicant’s Request**

The owner would need to meet the front yard setback.

#### **Staff Recommendation**

Staff recommends **DENIAL** of the variance request **in A-18-081** based on the following findings of fact:

1. The proposed project may detract from the community character of the community.