



City of San Antonio

Agenda Memorandum

File Number:18-4126

Agenda Item Number: 8.

Agenda Date: 7/2/2018

In Control: Board of Adjustment

Case Number: A-18-110
Applicant: Saul Maya de Jesus
Owner: Saul Maya de Jesus
Council District: 4
Location: 3315 Pitluk Avenue
Legal: Lot 63, Block 1, NCB 11261
Description:
Zoning: "RM-4 AHOD" Residential Mixed Airport Hazard Overlay District
Case Manager: Debora Gonzalez, Senior Planner

Request

A request for a 5' variance from the 10' rear setback, as described in Section 35-310.01, to allow a dwelling unit to be 5' from the rear property line.

Executive Summary

The subject property is located at 3315 Pitluk Avenue, approximately 260 feet east of Masters Avenue. The applicant is requesting a rear setback variance in order to keep a dwelling unit 5 feet from the rear property line. The applicant built a two-story dwelling unit, each floor consists of 1 kitchen, 1 full bathroom and 2 bedrooms. The applicant states that they were not aware of setback requirements; they want to comply with Code. The zoning allows for multiple dwelling units. The structure before the Board is not an accessory dwelling unit.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
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“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Three-Family Dwelling
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Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling
South	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling
East	“RM-4 AHOD” Residential Mixed 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 property is within the West/Southwest Sector Plan and designated as Suburban Tier 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 existing structure is 5' from the rear property line and the detached dwelling unit meets all other setback requirements. Staff finds 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.*
An unnecessary hardship would result from the strict enforcement of the ordinance as it would result in the structure having to be demolished and rebuilt. The structure will still be required to obtain permits, reviews, and inspections.
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*
Substantial justice will be done as the requested setback still provides for a safe development pattern. The request provides fair and equal access to air and light, and provides for adequate fire separation.
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

“RM-4 AHOD” Residential Mixed 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.*

The recommended variance would not place the structure out of character within the community. If the structure were limited to one bedroom and one kitchen it would be permitted in its current location.

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 circumstances existing on the property is that the dwelling unit has already been built, the lot has enough space for two structures, and the applicant is only seeking the rear setback reduction. The 5' variance allows for adequate space for maintenance of the property, prevents fire spread, and allows proper rain water runoff.

Alternatives to Applicant's Request

The alternative to the applicant's request is to conform to rear setback set forth in the Unified Development Code.

Staff Recommendation

Staff recommends **APPROVAL** of variance in **A-18-110**, based on the following findings of fact:

1. The requested setback provides adequate room for light, air, and maintenance, and;
2. The variance is unlikely to detract from the character of the district, and;
3. The variance is unlikely to have a negative impact on the adjacent properties.