



City of San Antonio

Agenda Memorandum

File Number:18-4322

Agenda Item Number: 8.

Agenda Date: 7/16/2018

In Control: Board of Adjustment

Case Number: A-18-118
Applicant: William Evans
Owner: William Evans
Council District: 3
Location: 3303 Pollydale Avenue
Legal: Lot 26, Block 6, NCB 13080
Description:
Zoning: "R-5" Residential Single-Family District
Case Manager: Debora Gonzalez, Senior Planner

Request

A request for 1) a 4'11" variance from the 5' side setback, as described in Section 35-310.01, to allow an attached patio cover to be 1" from the side property line, and 2) a 4.5' variance from the 20' rear yard setback, as described in Section 35-310.01, to allow an attached patio cover to have a 15.5' rear setback.

Executive Summary

The subject property is located at 3303 Pollydale Avenue at the intersection with Pecan Valley Drive. The applicant is seeking to keep an attached patio cover that was built along the fence and 1" from the property line. The applicant got a double fee permit on November 3, 2017 for building an attached patio cover 1" from the side property line and 15.5' from the rear property line. When the owner applied for the permit he stated that the patio cover structure will be reduced to meet the required side and rear setbacks. The City building inspection department approved the patio cover building framing and the final building inspection on November 21, 2017. In March 2018 the owner received a ticket from Code Enforcement for not meeting the required setbacks. The patio cover structure creates an overbuilt environment, is made entirely of wood and there are no similar patio cover structures in the neighborhood.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-5" Residential Single-Family District	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-4" Residential Single-Family District	Single-Family Dwelling
South	"R-5" Residential Single-Family District	Single-Family Dwelling
East	"R-5" Residential Single-Family District	Single-Family Dwelling
West	"R-4" Residential Single-Family District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The property is located within the boundaries of the Highlands Community Plan and currently designated as Low Density Residential in the future land use component of the plan. The subject property is located within the Highland Hills 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. The patio cover is not designed to mitigate rainwater within the subject property and the substantial size of the patio cover poses a negative impact on other properties. The variances would be contrary to the public interest.

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

There are no special conditions that prohibit the attached patio cover structure from meeting the 5' side setback and the 20' rear setback. There is enough space to meet the setbacks and have room to ensure adequate separation for maintenance and access to air and light.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

The spirit of the ordinance will not be observed in that the spirit intends to provide for safe development throughout the community. Allowing the reduced setbacks limits room for maintenance and does not encourage proper storm water mitigation.

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

The variance will not authorize the operation of a use other than those uses specifically authorized in the “R-5” Residential Single-Family 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 patio cover was constructed without permits and the owner could have completed the construction of the attached patio cover meeting the required setbacks during framing. Although, that the applicant passed the building inspections it is also the owner’s responsibility to adhere to Section 35-310.01.

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 could find no unique circumstance to warrant consideration of variances in this situation. The lot is over built and has adequate room for storage in the rear with setbacks.

Alternative to Applicant’s Request

The alternative to the applicant’s plan would be to comply with the side and rear building setbacks as defined within Section 35-310.01.

Staff Recommendation

Staff recommends **DENIAL** of the variances in **A-18-118**, based on the following findings of fact:

1. There are no unique circumstances present that warrant the request, and;
2. The request negatively impacts the appearance of the district.

