



City of San Antonio

Agenda Memorandum

File Number:18-4484

Agenda Item Number: 5.

Agenda Date: 8/6/2018

In Control: Board of Adjustment

Case Number: A-18-117
Applicant: Ebodia Villarreal
Owner: Ebodia Villarreal
Council District: 5
Location: 347 Obregon Street
Legal: Lot 23, NCB 6876
Description:
Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard
Overlay District
Case Manager: Debora Gonzalez, Senior Planner

Request

A request for a for a 16.5' variance from the 20' rear yard setback, as described in Section 35-310.01, to allow an addition to be 3.5' from the rear property line.

Executive Summary

The subject property is located at 347 Obregon Street, approximately 170 feet east of South Calaveras Street. The applicant purchased the subject property which only had 1 bedroom, 1 full bathroom, a kitchen and a living room. The owner completed an addition 2 or 3 years ago to the subject property to accommodate her growing family; they added 2 rooms and 1 full bathroom without the required building permits. The owner then made a second addition and added 2 bedrooms, and received a stop work from Code Enforcement on May 2018.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
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“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
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Surrounding Zoning/Land Use

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

Comprehensive Plan Consistency/Neighborhood Association

The property is located within the boundaries of the Guadalupe Westside 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 San Juan Gardens Neighborhood Association and Collins Garden Neighborhood Association. As such, they were notified and asked to comment.

Comprehensive Plan Consistency/Neighborhood Association

Obregon Street is classified as a local.

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. Granting the rear setback variance heightens the risk of fire spread to the adjacent property and is contrary to the public interest. The series of unpermitted additions has led to an over-built lot that lacks proper fire access, and places the structure too close to adjacent properties, endangering them in the event of a fire.

At a minimum, staff could support a five foot rear setback, which is permitted within other zoning districts, namely the “IDZ” Infill Development Zone. The distance provides adequate space for maintenance, and fire separation.

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

There are no special conditions that prohibit the home from meeting the twenty foot rear setback. Had the applicant applied for a building permit during any of the additions to the home, they would have been advised of methods to add space without harming potentially harming their neighbors.

Staff can support a variance to allow the rear setback to be reduced to five feet, as this distance provides adequate separation for fire safety and access, and is permitted in other zoning districts.

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

Substantial justice will not be served as the addition, as built, does not ensure adequate separation for maintenance and access to air and light. Further, it creates a fire hazard where none existed previously.

Providing a five foot rear setback would satisfy the spirit of the ordinance and provide room for the family to expand the home and maintain the property.

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-4 AHOD” Residential Single-Family 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.*

As built, the addition could substantially harm the use of adjacent property, namely in the event of a fire. Staff cannot support the request as it is unsafe.

Reducing the rear setback to five feet would provide safer conditions for the neighboring property and would provide some open space.

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.*

There is no unique circumstance existing on the property that warrants the rear setback reduction. Had the applicant applied for building permits, there would have been information provided for all building constraints on the property.

As the lot only measures 78 feet in depth, the 20 foot rear setback, along with the 10 foot front setback, leaves only 48 feet of a buildable house depth. This is a unique circumstance and the reduction of the 20 foot rear setback to 5 feet would allow an addition and still provide a safe setback.

Alternative to Applicant’s Request

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

Staff Recommendation

Staff recommends **DENIAL** of the variance in **A-18-117**, based on the following findings of fact:

1. There is no unique circumstance or special condition that warrants the rear reduction to 3.5' from the property line, and;
2. The request creates unsafe fire protection distances.

Staff recommends **APPROVAL** of a 15' variance to allow an attached addition with a 5' rear setback in **A-18-117**, based on the following findings of fact:

1. A 5' rear setback allows the structure to be easily fire rated, and is safe for the property owner and neighbors;
2. A 5' rear setback provides reasonable space to maintain the structure.