



City of San Antonio

Agenda Memorandum

File Number:19-3917

Agenda Item Number: 6.

Agenda Date: 5/6/2019

In Control: Board of Adjustment

Case Number: BOA 19-10300047
Applicant: Daniel and Paulina Minesinger
Owner: Daniel and Paulina Minesinger
Council District: 5
Location: 235 Yellowstone Street
Legal: Lot 9, Block 1, NCB 6305
Description:
Zoning: "R-6 H RIO-4 AHOD" Residential Single-Family River
Improvement Overlay Airport Hazard Overlay District
Case Manager: Mercedes Rivas, Planner

Request

A request for a 3'6" from the 5' side setback requirement, as described in Section 35-371(a), to allow an addition to be as close as 1'6" away from the west side property line.

Executive Summary

The applicants are requesting a decrease of the west side building setback line for an addition that they plan to add to their home. The lot is shaped oddly in that the further back you go, the narrower the lot becomes, which is why the applicants are requesting a variance. The Office of Historic Preservation and the Historic Design Review Commission have approved the proposed design and are in support of this variance.

Code Enforcement History

No Code Enforcement history exists on the property.

Permit History

There is no permit history related to the addition on the property. The property owner is seeking a variance to allow for permit to be issued.

Subject Property Zoning/Land Use

| Existing Zoning | Existing Use |
|-----------------|--------------|
|-----------------|--------------|

| | |
|--|------------------------|
| “R-6 H RIO-4 AHOD” Residential Single-Family River Improvement Overlay Airport Hazard Overlay District | Single-Family Dwelling |
|--|------------------------|

Surrounding Zoning/Land Use

| Orientation | Existing Zoning District(s) | Existing Use |
|--------------------|---|------------------------|
| North | “C-3 NA H RIO-4 AHOD” Residential Single-Family River Improvement Overlay Airport Hazard Overlay District | Commercial Property |
| South | “R-6 H RIO-4 AHOD” Residential Single-Family River Improvement Overlay Airport Hazard Overlay District | Single-Family Dwelling |
| East | “R-6 H RIO-4 AHOD” Residential Single-Family River Improvement Overlay Airport Hazard Overlay District | Single-Family Dwelling |
| West | “R-6 H RIO-4 AHOD” Residential Single-Family River Improvement Overlay Airport Hazard Overlay District | Single-Family Dwelling |

Comprehensive Plan Consistency/Neighborhood Association

The property is within the Lone Star Community Plan and is designated “Low Density Mixed Use” in the land use component of the plan. The subject property is within the Roosevelt Park Neighborhood Association. As such, they were notified and asked to comment.

Street Classification

Yellowstone Street is classified as a Local Street.

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 variance is not contrary to the public interest as the structure will not create water runoff on the adjacent property and will not injure the rights of the adjacent property owners.

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

An unnecessary hardship would result from the enforcement of the ordinance as strict enforcement would require the owners of the property to build the addition within the required setbacks

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 setback limitation is to prevent fire spread, allow adequate space for maintenance, and encourage proper storm water drainage. All intents of this law will be observed if approved.

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 zoning 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.*

This variance would not substantially injure or alter the use or character of adjacent conforming property or character of the district. Specifically, the variance would not place the structure out of character within the community. Further, the unit in question is in the rear yard, not affecting the public right-of-way. The structure in question does not injure 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.*

The unique circumstance existing on the property is that the lot is shaped oddly in that the further back you go, the narrower the lot becomes, which is why the applicants are requesting a variance

Alternatives to Applicant's Request

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

Staff Recommendation

Staff recommends **APPROVAL** of variances in **BOA-19-10300047** based on the following findings of fact:

1. The requested variance will not detract from the character of the district and is highly unlikely to be seen from the right-of-way, and;
2. Adequate space will be utilized to prevent storm water runoff, maintenance of property, and maintenance of the structure without trespass.