



City of San Antonio

Agenda Memorandum

File Number:19-4808

Agenda Item Number: 4.

Agenda Date: 6/17/2019

In Control: Board of Adjustment

Case Number: BOA-19-10300067
Applicant: J.T. Martinez
Owner: J.T. Martinez
Council District: 7
Location: 9031 Oak Meadows Run
Legal: Lot 14, Block 3, NCB 18308
Description:
Zoning: "R-4" Residential-Single Family District
Case Manager: Debora Gonzalez, Senior Planner

Request

A request for 1.3' variance from the 5' side setback requirement, as described in Section 35.310.01, to allow a structure to be 3.7' from the side property line.

Executive Summary

The subject property is located at 9031 Oak Meadows Run, approximately 43' east of Tezel Road. The applicant is seeking to keep a new structure located 3.7' from the side property line near the east rear corner of the property. The subject property is located in the Oakridge Village Subdivision. The newly platted subdivision North Oak Meadows consists of all single-family development. The encroachment at the rear corner of the property along the side property line was discovered after the last field visit by the survey crew. The owner is unable to sell the property until after this variance is approved.

Code Enforcement History

No Code Enforcement history.

Permit History

The property owner is seeking a variance to allow for the sale of this property.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-4" 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-4" Residential-Single Family District	Single-Family Dwelling
East	"R-4" Residential-Single Family District	Single-Family Dwelling
West	"C-3" General Commercial District	Elementary School

Comprehensive Plan Consistency/Neighborhood Association

The property is within the Northwest Community Plan and designated as "Medium Density Mixed Use" in the future land use component of the plan. The subject property is not located within the boundaries of a registered neighborhood association.

Street Classification

Oak Meadows Run 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. In this case, the encroachment on the side property line was discovered after the last field visit by the survey crew. The owner is unable to sell the property until after this variance is approved. The neighboring property is at 5.5' from the shared property line. 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.*

Due to the finalized construction of the structure, a literal enforcement of the ordinance would result in unnecessary hardship by requiring demolition of that portion of the east rear corner that encroaches into the side yard 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 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. The requested variance is not visible from the public right of way due to the encroachment being on the rear corner.

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 are neither due to the general conditions of the district, nor due to the owner, and is not financial in nature. The plight of the owner originates from the last completed survey where the encroachment was discovered.

Alternatives to Applicant's Request

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

Staff Recommendation

Staff recommends **APPROVAL** of variance in **BOA-19-10300067**, based on the following findings of fact:

1. The requested variance is will not detract from the character of the district, and;
2. The 3.7' side setback will provide room for adequate light, air, and maintenance.