



City of San Antonio

Agenda Memorandum

File Number:20-2290

Agenda Item Number: 2.

Agenda Date: 3/2/2020

In Control: Board of Adjustment

Case Number: BOA-19-10300167
Applicant: Fernando De Leon
Owner: Oriente LP
Council District: 9
Location: 10603 West Ave
Legal Description: Lot 1, Block 21, NCB 11737
Zoning: "O-1 AHOD" Office Airport Hazard Overlay District
Case Manager: Kayla Leal, Senior Planner

Request

A request for a 34'11" variance from the 35' front setback requirement, as described in Section 35-310.01, to allow a building to be 69'11" from the front property line.

Executive Summary

The subject property is currently a vacant lot that will be developed as an office building. The site has a heritage tree that the applicant wishes to preserve. The proposed project will be providing a 4,725 square foot medical office building with two rows of parking in front of the building. To provide the required parking and preserve the heritage tree, the applicant cannot meet the maximum building setback requirements. All landscaping bufferyard requirements will be met along the rear and Northeast side property line.

Code Enforcement History

There is no code enforcement history on file for this property.

Permit History

The property has no permits on file.

Zoning History

The subject property was annexed in to the City of San Antonio on September 25, 1952, established by ordinance 18115 and was "A" Single Family Residence District. Under the 2001 Unified Development Code the property zoned "A" Single Family Residence District was converted to "R-5" Residential Single Family district. The property was rezoned to the current "O-1" Office District, established by Ordinance 99174 dated May 13, 2004.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-4 AHOD” Residential Single Family Airport Hazard Overlay District	Single family residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-5 AHOD” Residential Single Family Airport Hazard Overlay District	Vacant property
South	“R-5 AHOD” Residential Single Family Airport Hazard Overlay District	Single family residence
East	“R-5 AHOD” Residential Single Family Airport Hazard Overlay District	Church
West	“MF-25 AHOD” Multi Family Airport Hazard Overlay District	Vacant property

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the San Antonio International Airport Vicinity Plan and designated as “Mixed Use” in the future land use component of the plan. The subject property is not in the boundaries of a neighborhood association but is within 200 feet of the Greater Harmony Hills neighborhood association who was notified and provided with the opportunity to comment.

Street Classification

West Avenue is classified as a Secondary Arterial.

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 variance is being requested to preserve a heritage tree on the subject property.

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

Staff has found a special condition on the property to include a heritage tree in the near the front property line. A literal enforcement of the ordinance would result in the unnecessary hardship of tree removal in order to construct the office building.

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 defined as the intent of the code, rather than the exact letter of the law. The intent of the front setback is to preserve appropriate design that is consistent with the surrounding community. The variance request will not negatively affect the surrounding community and will maintain the spirit of the ordinance.

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.*

No uses other than those allowed within the district will be allowed with this variance.

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 requested variance will not alter the essential character of the district. Staff has found that the request will maintain the character by preserving the tree canopy that currently exists.

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 applicant is requesting the variance due to the unique circumstance that a heritage tree is placed within the maximum front setback requirement. Staff has not found circumstances that were created by the property owner nor are financial.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the front setback requirements of the UDC Section 35-310.01.

Staff Recommendation

Staff recommends **APPROVAL** of the variance in **BOA-19-10300167** based on the following findings of fact:

1. The preservation of a heritage tree is a special condition on the site that warrants leniency in the setbacks.
2. The project cannot provide the required parking and meet the setback requirements
3. The requested variance will not alter the character of the surrounding area