



City of San Antonio

Agenda Memorandum

File Number:20-6072

Agenda Item Number: 6.

Agenda Date: 10/19/2020

In Control: Board of Adjustment

Case Number: BOA-20-10300093
Applicant: Jeannette Jay
Owner: Jeannette Jay
Council District: 3
Location: 204 East White Avenue
Legal Description: Lot 3, Block 17, NCB 7691
Zoning: "MF-33 AHOD" Multi-Family Airport Hazard Overlay
District
Case Manager: Azadeh Sagheb, Planner

Request

A request for a 2'6" variance from the required 5' side setback, as described in Section 35-370, to allow a detached garage to be 2'6" away from the side property line.

Executive Summary

The subject property is located on the northern side of Southeast Military Drive and the western side of Roosevelt Avenue. The area is predominantly surrounded by residential structures. The applicant is requesting to grant a variance from the minimum side setback to build a new garage 2'6" away from the side property line. The applicant states that the original garage was converted into a living space maintaining a 2'6" side setback and the proposed garage will be aligned with that.

Code Enforcement History

No code enforcement history exists on this property.

Permit History

No permits have been processed for this property.

Clear Vision Review

A review of Clear Vision is not required for this request.

Zoning History

The property was annexed into the City of San Antonio by Ordinance 1391, dated September 23, 1944, and was originally zoned as “D” Apartment District. The subject property was converted to the current “MF-33” Multi-Family District with the adoption of the 2001 Unified Development Code (UDC), established by Ordinance 93881, on May 3, 2001.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“MF-33 AHOD” Multi-Family Airport Hazard Overlay District	Residential

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Residential
South	“MF-33 AHOD” Multi-Family Airport Hazard Overlay District	Residential
East	“MF-33 AHOD” Multi-Family Airport Hazard Overlay District	Residential
West	“MF-33 AHOD” Multi-Family Airport Hazard Overlay District	Residential

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the South Central San Antonio Community Plan and is designated as “Low-Density Residential” in the future land use component of the plan. The subject property is within the boundaries of the Mission San Jose Neighborhood Association.

Street Classification

E White Avenue 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, given the proximity to the adjacent property, granting the variances still provides adequate accessibility to light, air, and open space for both the subject property and the adjacent property.

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 result in not allowing the owner of the property to build the proposed structure as intended.

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 requested variances will not permit a use not authorized within the district it is located in.

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 to reduce the side setback would not substantially injure or alter the use or character of adjacent conforming property or character of the district. The proposed unit will be within the rear yard, not affecting the public right-of-way or the clear vision ordinance.

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. Willing to maintain the existing structure side setback leaves little room for proper building setback.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to setbacks set forth in the Unified Development Code, Section 35-370(b)

Staff Recommendation

Staff recommends **APPROVAL** of **BOA-20-10300093**, based on the following findings of fact:

1. Adequate space will be utilized to prevent storm water runoff, maintenance of property, and maintenance of the structure without trespass, and;
2. The variance would not place the structure out of character within the community.