



City of San Antonio

Agenda Memorandum

File Number:20-6074

Agenda Item Number: 5.

Agenda Date: 10/19/2020

In Control: Board of Adjustment

Case Number: BOA-20-10300091
Applicant: Shawn Brown
Owner: Shawn Brown
Council District: 5
Location: 126 Vitra
Legal: Lot 16, Block 1, NCB 3075
Description:
Zoning: "RM-4 NCD-1 AHOD" Residential Mixed South Presa
Street South Saint Mary's Street Neighborhood Conservation
Airport Hazard Overlay District
Case Manager: Dominic Silva, Senior Planner

Request

A request for a 3'9" variance from the required 5' side setback, as described in Section 35-310.01, to allow a structure to be 1'3" away from the side property line.

Executive Summary

The applicant is requesting a side setback variance to maintain a newly built addition and back patio to be within the side setback. The house was recently renovated, and the addition was constructed for extra living space.

The original structure was built circa 1930 that is off orientation to the north-south property lines; thus, any additions to the rear of this house would need variances due to the continual encroachment within the side setback on the west side of the property. Many lots on Vitra are of similar design and orientation with a construction date within the 1930's.

Code Enforcement History

Code enforcement has been working with the applicant and the general contractor on the proper procedures moving forward for the subject property.

Permit History

Electrical, plumbing, and minor repair permits have been processed but not finalized.

Clear Vision Review

A review of Clear Vision is not required.

Zoning History

The property is within the original 36 square miles of the City of San Antonio and was originally zoned as “C” Apartment District. The “C” Residence District was rezoned to “R-2” Two Family Residence District with Ordinance 74924, dated December 9, 1991. The “R-2” converted to the current “RM-4” Residential Mixed 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
“RM-4 NCD-1 AHOD” Residential Mixed South Presa Street South Saint Mary’s Street Neighborhood Conservation Airport Hazard Overlay District	Residential

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“RM-4 NCD-1 AHOD” Residential Mixed South Presa Street South Saint Mary’s Street Neighborhood Conservation Airport Hazard Overlay District	Residential
South	“C-3NA RIO-4 MC-1 NCD-1 AHOD” General Commercial Nonalcoholic Sales River Improvement Overlay Metropolitan Corridor Mixed South Presa Street South Saint Mary’s Street Neighborhood Conservation Airport Hazard Overlay District	Commercial
East	“RM-4 NCD-1 AHOD” Residential Mixed South Presa Street South Saint Mary’s Street Neighborhood Conservation Airport Hazard Overlay District	Residential
West	“RM-4 NCD-1 AHOD” Residential Mixed South Presa Street South Saint Mary’s Street Neighborhood Conservation Airport Hazard Overlay District	Residential

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Downtown Area Regional Center Plan and is designated as “Medium Density Residential” in the future land use component of the plan. The subject property is located within the Lavaca neighborhood association.

Street Classification

Vitra 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 lot constraints and building orientation, granting the variances still provides adequate accessibility to light, air, and open space.

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

A literal enforcement of the ordinance would result in unnecessary hardship by requiring the demolition of the entire structure. Further, if enforced, the ordinance would significantly reduce the amount of developable space on each site. The small lot configurations are the result of an old subdivision and the lots are similar to the lot scheme of the neighborhood

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.*

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 residential structure is following a district norm of reduced setbacks for all houses built within the area.

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 character of reduced side setbacks due to building orientation within the district is uniform, leaving little room for proper building setbacks.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the setbacks set forth in the Unified Development Code, Section 35-310.01.

Staff Recommendation

Staff recommends **APPROVAL of BOA-20-10300091** because of the following reasons:

1. The requested variance is will not detract from the character of the district, and;
2. Adequate space will be utilized to prevent storm water runoff, maintenance of property, and maintenance of the structure without trespass, and;
3. The original structure's orientation is offset compared to the north-south property lines.