City of San Antonio

Agenda Memorandum

File Number:20-6682

Agenda Item Number: 5.

Agenda Date: 11/16/2020

In Control: Board of Adjustment

Case Number:	BOA-20-10300114
Applicant:	Jon Robinson
Owner:	Drew Allen
Council District:	3
Location:	4402 South New Braunfels
Legal Description:	Lot 30, Block 1, NCB 7586
Zoning:	"C-3 AHOD" General Commercial Airport Hazard Overlay District
Case Manager:	Azadeh Sagheb, Planner

Request

A request for 1) a 9'7" variance from the 15' Type B bufferyard to allow a bufferyard to be 5'5" along the north property line, 2) a 10'8" variance from the 15' Type B bufferyard to allow a bufferyard to be 4'4" along the east property line, 3) a 10'8" variance from the 15' Type B bufferyard to allow a bufferyard to be 4'4" along the west property line, and 4) a 11'6" variance from the 15' Type C bufferyard to allow a bufferyard to be 3'6"' along the south property line.

Executive Summary

The subject property is located at the corner of HWY IH 37 South and South New Braunfels Avenue. The area is surrounded by commercial and residential structures. There is currently a commercial structure on the site built prior to enactment of the current Code that has been permanently closed.

The applicant will be demolishing the existing structure to construct a new commercial building. The applicant requests relief from enforcement of Section 35-510 of the UDC, which requires a 15' bufferyard landscaping on all four sides of the property.

Code Enforcement History

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

Permit History

No permits are on file for the property.

Zoning History

The subject property was annexed into the City of San Antonio by Ordinance 18115, dated September 25, 1952 as "F" Local Retail District. The property was rezoned by Ordinance 46410, dated March 18, 1976 from "F" Local Retail District to "B-3" Business District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 3, 2001, the property zoned "B-3" Business District was converted to "C-3" General Commercial District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"C-3 AHOD" General Commercial Airport Hazard Overlay District	Vacant Lot

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"C-2 AHOD" Commercial Airport Hazard Overlay District and "I-1 AHOD" General Industrial Airport Hazard Overlay District	Neighborhood Shopping Center
South	"R-4 AHOD" Single- Family Airport Hazard Overlay District	Residential
East	"C-2 AHOD" Commercial Airport Hazard Overlay District	Pawnshop
West	"C-3 AHOD" General Commercial Airport Hazard Overlay District	Convenience Store

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within Brooks Regional Center Area and designated as "Neighborhood Mixed Use" in the future land use component of the plan. The subject property is within the boundary of the Highland Hill Neighborhood Association and within 200 feet from the Hot Wells Mission Reach Neighborhood Association and as such, they were notified of the case.

Street Classification

South New Braunfels is classified as a Primary Arterial Type B (70' to 120' of right of way) and Southcross Blvd is a Secondary Arterial Type A (86' of right of way).

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 reduction of bufferyards on the all four sides around the property is not contrary to public interest as it does not negatively impact any surrounding properties or the general public. The development of an abandoned property will be beneficial and a net improvement to the surrounding vicinity.

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

Literal enforcement would not allow the redevelopment of the property as proposed due to the lot size constrains and establishing new bufferyards as required.

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 bufferyard requirements is to prevent fire spread, increase privacy, and separate uses within a district. The requested variances along the property lines meet the intent of the code.

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 in 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.*

The introduced bufferyards to the property lines would enhance the overall appearance of the site, streetscape, and neighborhood. The requested variances will not substantially injure adjacent conforming properties.

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 here is not the fault of the owner of the property, nor is it due to, or the result of, general conditions in the community in which it is located. Because of the small size of the tract, the proposed development cannot be constructed as intended.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the landscape bufferyard requirements in Section 35-510.

Staff Recommendation

Staff recommends **APPROVAL** of BOA-**20-10300114** of the requested variances based on the following findings of fact:

1. The requested bufferyards will enhance the exterior beautification of the community, and;

2. The intended redevelopment will introduce the bufferyard landscaping which currently does not exist on the property.