City of San Antonio

Agenda Memorandum

File Number: 21-4989

Agenda Item Number: 9.

Agenda Date: 8/2/2021

In Control: Board of Adjustment

Case Number:	BOA-21-10300090
Applicant:	Tarun Gajera
Owner:	Tarun Gajera
Council District:	5
Location:	343 Bank
Legal Description:	Lot 11, Block 1, NCB 6170
Zoning:	"R-6 CD AHOD" Residential Single-Family Airport Hazard Overlay District with a Conditional Use for a Duplex.
Case Manager:	Kayla Leal, Senior Planner

Request

A request for a 4' 8" variance from the minimum 5' side setback requirement, as described in Section 35-310.01, to allow an addition with 2" gutters to be 4" from side property line.

Executive Summary

The subject property is located along Bank Street and the applicant recently renovated the single-family dwelling on the property. An addition was added to the structure, which is encroaching into the minimum 5' side setback. The survey submitted shows the structure to be 4" away from the side property line. Upon the site visit, staff observed a window along the side of the structure. DSD Plan Review Staff has noted that since the structure is so close to the property line, the window should be removed and the wall should be fire rated in order to reduce the risk of a fire hazard.

Code Enforcement History

A Code Enforcement Investigation was opened on July 28, 2021 for Building Without a Permit.

Permit History

Permits have recently been pulled for the renovation of the structure.

Zoning History

The property was part of the original 36 square miles of the City of San Antonio and zoned "C" Apartment District. The zoning converted from "C" Apartment District to the "MF-33" Multi-Family District upon adoption of the 2001 Unified Development Code (Ordinance 93881, dated May 3, 2001). The property was rezoned by Ordinance 2006-12-14-1441, dated December 14, 2006 to the current "R-6 CD" Residential Single-Family District with Conditional Use for a Duplex.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-6 CD AHOD" Residential Single-Family Airport Hazard Overlay District with a Conditional Use for a Duplex	Single Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single Family Dwelling
South	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single Family Dwelling
East	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single Family Dwelling
West	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located in the SA-Tomorrow Downtown Plan and is designated "Urban Low Density Residential" in the future land use component of the plan. The subject property is located within the Lone Star Neighborhood Association, and they were notified of this application.

Street Classification

Bank is classified as a local road.

Criteria for Review - Variances

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. The applicant is requesting a variance to the side setback for an addition to a single-family dwelling. The addition is 4" away

from the side property line, which can potentially create fire hazard issues.

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 the applicant having to remove or reduce the size of the addition in order to meet the 5' setback. It is recommended to at least fire rate the wall and remove the window to reduce any fire hazard.

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 recommended variance to allow a 2' side setback variance will maintain the spirit of the ordinance to create more space between structures.

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 adjacent structure currently has adequate space from the structure on the subject property. However, if they wanted to build, the adjacent structure would only be 5' 4" away from the addition which could create a fire hazard.

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.*

Staff finds the circumstances were created by the owner of the property. If the property owner pulled permits prior to construction, they would have been notified of the building setbacks.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Lot and Building Dimensions of the UDC Sections 35-310.01.

Staff Recommendation - Side Setback Variance

Staff recommends Denial **with an Alternate Recommendation of a 2' variance to the minimum side setback of 5' to allow the structure to be 3' away from the side property line** in BOA-21-10300090 based on the following findings of fact:

1. The addition is currently 4" away from the side property line; and
2. There is currently a window built into the addition; and
3. It will reduce the risk of a fire hazard if the structure is moved 3' away from the property line.