City of San Antonio

Agenda Memorandum

File Number: 15-1758

Agenda Item Number: 7.

Agenda Date: 3/2/2015

In Control: Board of Adjustment

To:	Board of Adjustment
Case Number:	A-15-048
Date:	March 02, 2015
Applicant:	Isaac Ojeda
Owner:	Anne Zanikos
Council District:	1
Location:	1023 Shook Avenue
Legal Description:	Lot 20, NCB 6009
Zoning:	"NC AHOD" Neighborhood Commercial Airport Hazard Overlay District
Prepared By:	Logan Sparrow, Planner

Request

A request for a five foot variance from the ten foot minimum side setback, as described in Section 35-310.01, to allow a building addition five feet from the side property line.

Executive Summary

The subject property is located at 1023 Shook Avenue approximately 242 feet north of E Hildebrand Avenue. The applicant is seeking a variance to allow an inline addition to an existing building that will be five feet from the side property line. Due to its location next to residential zoning the "NC" Neighborhood Commercial base zoning district requires a ten foot side setback. The addition measures 257 square feet and will involve minimal electrical work and no plumbing work. The addition will also add a door and some windows for the office space and storage use. The Board should consider that the adjacent property to the south has an "MF-33" Multi-Family zoning, even though it is used as a dentist's office. If that office had an office or commercial zoning, then the requested setback would not be required.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"NC AHOD" Neighborhood Commercial Airport Hazard Overlay District	Office

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Office
South	"MF-33 AHOD" Multi-Family Airport Hazard Overlay District	Office
East	UZROW	Shook Avenue
West	"C-2 AHOD" Commercial Airport Hazard Overlay District	Multi-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the North Central neighborhood plan and designated as Neighborhood Commercial land use. The subject property is not located within the boundaries of any registered neighborhood association.

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 public interest is represented by basic setbacks to ensure safe separation betweens structures to prevent the spread of fire, and also to ensure equal access to air and light. Had the adjacent commercial use carried a commercial zoning then the requested setback variance would not be necessary. As such, staff finds that the requested variance is not contrary to the public interest.

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

The special conditions present in this case are the non-conforming zoning category of the property to the south. Despite being zoned for multi-family purposes the lot to the south is used as a dentist's office. If the property was zoned for commercial uses then the requested variance would not be necessary. As such, staff finds that a literal enforcement of the code would result in an unnecessary hardship.

3. By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.

The spirit of the ordinance intends to provide fair distance between commercial and residential zones or uses. In some cases the zoning categories on lots do not match the uses upon them. The Unified Development Code waived the setback requirement when commercial properties abut one another. If the adjacent property carried conforming zoning then the proposed addition would be permitted by right. As such, staff finds that granting the variance will respect the ordinance and that substantial justice will be done.

4. The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.

The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the "NC AHOD" Neighborhood Commercial Airport Hazard Overlay 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 requested variance will not substantially injure the appropriate use of adjacent properties, nor will it alter the character of the district. The use established on the subject property conforms to the neighborhood plan and its future designated land use. The requested variance is only requested as a result of a non-conforming, adjacent lot. As such, staff finds that the requested variance will not conflict with the district.

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 present in this case is the non-conforming zoning of the property to the south. This is not the fault of the owner of the property, nor is the problem merely financial in nature.

Alternative to Applicant's Request

The applicant needs to construct a the second dwelling 20 feet from the rear property line in accordance with the San Antonio Unified Development Code.

Staff Recommendation

Staff recommends **APPROVAL of A-15-048** based on the following findings of fact:

1. The variance would not be necessary if the commercial use to the south carried commercial zoning;
2. The requested variance is not out of character in the district in which it is located.