



City of San Antonio

Agenda Memorandum

File Number:15-2912

Agenda Item Number: 6.

Agenda Date: 5/4/2015

In Control: Board of Adjustment

Case Number: A-15-065
Applicant: Marco Vasquez
Owner: Marco Vasquez
Council District: 5
Location: 627 N San Gabriel Street
Legal Description: E IRR 106.47ft of Lots 31 & 32 EXC W IRR 25.1ft, Block 15, NCB 8303
Zoning: "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager: Margaret Pahl AICP, Senior Planner

Request

A request for 1) a three foot variance from the five foot side yard setback requirement, as detailed in Table 35-310-1 to allow an addition to a home that is two feet from the side property line; 2) a one foot variance from the minimum 20 foot rear yard setback, as detailed in Table 35-310-1, to allow a building addition with a 19 foot setback and 3) a two foot variance from the four foot maximum front yard predominately open fence height, as described in Section 35-514 (d), to allow a six foot tall wrought-iron fence in the front yard of the property

Executive Summary

The subject property is located within the Villa Aldama Subdivision, recorded in 1944. This plat created hundreds of residential lots between Culebra and Rivas, bisected by Encino's Creek. This creek was improved for storm drain management and the subject property has an angled rear lot line, reflecting this shared edge. The applicant actually owns the smaller residential lots south of the subject property. The applicant is seeking two variances for a recent building addition. The addition was constructed without building permits and cited by Code Enforcement.



The addition could not be permitted because of proximity to side and rear lot lines. Neither of the reduced setbacks would cause a trespass or fire concern. The requested side setback variance reflects the proximity of the building addition to an internal lot line. The rear variance would reduce the setback adjacent to the drainage ditch.

The applicant also recently installed a 6 foot wrought iron fence along the front property line, resulting in the need for the third requested variance. Wrought iron fencing in the front yard is very common throughout this neighborhood, with another requested front fence variance one block over on the same agenda. Proximity to the drainage infrastructure also increases the need for protection.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
South	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Drainage ditch
East	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
West	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The property is located within the boundaries of the West Sector Plan and designated for General Urban Tier land use. The subject property is located within the boundaries of the Loma Vista Neighborhood Association. As such, they were notified and asked to comment.

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 equal access to air and light provided by minimum setbacks. For the subject property, the requested setback variances maintain safety because of the proximity to drainage infrastructure. The requested fence variance is also consistent with the public interest by protecting the family from crime.

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

The special condition for this property is its peculiar shape because of its proximity to the storm drain. The small side lot is too small to function as a primary building site and in this case is providing adequate separation to allow long term maintenance and reduced fire threat for the side setback. Similarly, the rear setback is sufficient to provide all of the anticipated separation provided by a rear setback. In addition, the storm drain increases the home's isolation increasing the need for protection from the fence.

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 observed by providing space between buildings to reduce the threat of fire spread and allow for long-term maintenance. In this case, the home will still have adequate space for these important functions if the variances are granted. Therefore, 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 "R-5 AHOD" Residential Single-Family 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.*

Because of the small vacant parcel adjacent to the primary building lot, the addition appears to satisfy minimum setbacks. In the rear, the drainage ditch provides a large separation between the rear yard of the two abutting homes. Wrought-iron fencing is very common around this neighborhood and could be considered a character-defining feature.

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 characteristics for this property are created by the location of the historic Encino's Creek, which has now been improved to function as a regional storm drain facility. It borders both the side and rear property lines of this parcel, justifying the need for all three variances.

Alternative to Applicant's Request

The applicant needs to file an amending plat to eliminate the interior lot line as an alternative to the side setback variance. In addition, the fence could be reduced in height to comply with the maximum 4 feet allowed.

Staff Recommendation

Staff recommends **APPROVAL of A-15-065** based on the following findings of fact:

1. The lots are adjacent to a major storm drain facility increasing isolation and the need for protection; and
2. There is adequate room for maintenance around the new building addition.