



City of San Antonio

Agenda Memorandum

File Number:15-3419

Agenda Item Number: 3.

Agenda Date: 6/1/2015

In Control: Board of Adjustment

Case Number: A-15-089
Applicant: Jamal E Said
Owner: Jamal E Said
Council District: 10
Location: 635 E Nottingham
Legal Description: Lot 16, Block 19, NCB 10419
Zoning: "NP-8 AHOD" Neighborhood Preservation Airport Hazard Overlay District
Case Manager: Margaret Pahl AICP, Senior Planner

Request

A request for a two and a half foot variance from the five foot side yard setback, as required in Section 35-371, to allow an accessory dwelling unit two and a half feet from the side property line.

Executive Summary

The subject property is located with the Northridge Park Subdivision, recorded in 1952. The neighborhood is characterized by mid-century ranch houses and mature trees. The lot measures 74 feet by 120 feet, and includes a heritage tree in the back yard. The applicant is seeking a variance to allow an "in-line" addition to the existing garage to convert it to an accessory dwelling unit. The garage is currently set back about 2.5 feet from the side property line. The applicant is seeking approval to add a 9 foot deep addition, which would create a 480 square foot dwelling unit. This size satisfies the limitation of 40% of the size of the main house, which would allow a unit with 750 square feet. The applicant states that the proposed addition is preferred to other options which include those that would change the appearance of the main house or damage the heritage tree.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"NP-8 AHOD" Neighborhood Preservation Airport Hazard Overlay District	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
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North	"NP-8 AHOD" Neighborhood Preservation Airport Hazard Overlay District	Single-Family Dwelling
South	"NP-8 AHOD" Neighborhood Preservation Airport Hazard Overlay District	Single-Family Dwelling
East	"NP-8 AHOD" Neighborhood Preservation Airport Hazard Overlay District	Single-Family Dwelling
West	"NP-8 AHOD" Neighborhood Preservation Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the Northeast Inner Loop Neighborhood Plan and designated as Low Density Residential Land Use. The subject property is located within the boundaries of Oak Park/ Northwood, a registered 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, these criteria are represented by setbacks designed to ensure equal access to air and light. Since the requested variance would allow a 9 foot deep addition to the existing garage, the variance is not contrary to public interest.**

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

Staff finds that the special condition present in this case is the existing garage setback of 2.5 feet. A literal enforcement would result in the applicant not being permitted to convert the garage into living space, an unnecessary hardship. This conversion is considered a change of use, which triggers compliance with all minimum requirements.

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

The spirit of the ordinance allows an "in-line" addition to an existing home if the home has a 3 foot setback. With only a 6 inch difference, the requested variance would be consistent with the spirit of the ordinance.

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 "NP-8 AHOD" Neighborhood Preservation 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 garage is detached and located in the rear yard. A narrow, single-wide driveway provides the only visibility from the public way. Therefore, the small addition will likely not alter the character of 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 applicant is requesting a variance to allow use of the existing garage and a small addition as living space. The garage was built when a 3 foot setback was required.

Alternative to Applicant's Request

The applicant needs to reconstruct the garage with the 5 foot setback to come into compliance with the Unified Development Code.

Staff Recommendation

Staff recommends **APPROVAL of A-15-089** based on the following findings of fact:

1. The property is located in a neighborhood preservation district, with a heritage tree in the rear yard that needs protection;
2. The garage is an existing structure with a 2.5 foot side setback and cannot be used for living space without the variance.