



City of San Antonio

Agenda Memorandum

File Number:15-4473

Agenda Item Number: 5.

Agenda Date: 8/17/2015

In Control: Board of Adjustment

Case Number: A-15-129
Applicant: Hugo Xavier de Los Santos
Owner: Hugo Xavier de Los Santos
Council District: 8
Location: 19315 Havasu Hills
Legal Description: Lots 15 & 16, Block 11, NCB 34725B
Zoning: "R-6 MSAO-1 AHOD ERZD" Residential Single-Family Military
Sound Attenuation Overlay Airport Hazard Overlay Edwards Recharge
Zone District
Case Manager: Logan Sparrow, Senior Planner

Request

A request for 1) a 10 foot variance from the 20 foot rear setback, as described in Section 35-310.01, to allow a building addition 10 feet from the rear property line and 2) a variance from the 35 foot height limitation, also described in Section 35-310.01, to allow for the construction of a three story addition exceeding the height limitation.

Executive Summary

The subject property is located at 19315 Havasu Hills, approximately 380 feet east of Washita Way. The applicant started an addition to the home years ago, prior to the property being annexed into the city in 1999. The applicant wishes to finish the addition to the home, and the design of the addition requires two (2) variances. The proposed addition encroaches ten feet into the 20 foot rear setback, thus requiring a ten foot variance. The second variance is to permit the applicant to build the addition at a height of three (3) stories. The maximum allowable height in an "R-6" Residential Single-Family zone is 35 feet or two and a half stories. When measured from ground elevation, the addition would measure up to 44 feet tall, largely due to the topography on the subject property. There is as much as a 20 foot grade-change along the applicant's property, which increases the height of the structure.

The applicant purchased the lot behind the subject property and cites that the requested variances are unlikely to harm adjacent property owners as the property most directly affected is owned by the applicant. The applicant has stated that he is willing to record documentation with the county mandating that no lot may be sold without also purchasing the other lot as a means to ease fears that future development may be harmed by the reduced rear setback.

The subject property is also government by a Home Owner's Association. Per conversations with neighbors,

any proposed additions would need further review and approval from the HOA's Architectural Design and Review Committee.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-6 MSAO-1 AHOD ERZD" Residential Single-Family Military Sound Attenuation Overlay Airport Hazard Overlay Edwards Recharge Zone District	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-6 MSAO-1 AHOD ERZD" Residential Single-Family Military Sound Attenuation Overlay Airport Hazard Overlay Edwards Recharge Zone District	Single-Family Dwelling
South	"R-6 MSAO-1 AHOD ERZD" Residential Single-Family Military Sound Attenuation Overlay Airport Hazard Overlay Edwards Recharge Zone District	Single-Family Dwelling
East	"R-6 MSAO-1 AHOD ERZD" Residential Single-Family Military Sound Attenuation Overlay Airport Hazard Overlay Edwards Recharge Zone District	Single-Family Dwelling
West	"R-6 MSAO-1 AHOD ERZD" Residential Single-Family Military Sound Attenuation Overlay Airport Hazard Overlay Edwards Recharge Zone District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The property is located within the boundaries of the North Sector Plan and currently designated Low-Density Residential in the future land use component of the plan. The subject property is located within the Legend Hills Neighborhood Association. As such, the neighborhood association was 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 represented by height limitations to prevent non-uniform development within residential communities, and by setbacks to ensure adequate fire separation distances and fair and equal access to air and light. The request for the third story addition is not contrary to the public interest in that the third story does not conflict with the development of the community. This subdivision was built

prior to annexation into San Antonio. During field visits, staff found the presence of several two and a half and three story dwellings within the community. The topography of the site forces the building height to exceed that of the rest of the dwelling based on its placement on the lot. The location of the addition was selected because, while it is the highest point of the lot, it is also the most even-surfaced, making it the easiest portion of the lot to build upon. When measured from the floor of the addition, the structure would be 34.68 feet tall, which meets the 35 foot height limitation. However, the Unified Development Code states that measurement starts at the dirt and measures to the highest point of the structure. On the sloping lot, the highest measured point would be 44 feet tall.

The applicant purchased the property in 1987 and, six years later, after years of the lot behind them sitting vacant, purchased it in 1993. The second lot has even more dramatic topographical barriers to development, making future development of the site unlikely. The applicant fenced in the second lot the same year and the lot has acted as a large rear yard for the property since, a total of 22 years. The applicant began the addition to the home prior to annexation, which occurred in 1999, and has only recently resumed work on the addition. The slab was laid for the addition prior to annexation, and was laid within ten feet of the rear property line. As the applicant also owns the property to the rear of the addition, the property owner most directly affected by the variance request is the applicant himself. Therefore, staff finds that the request is not contrary to the public interest.

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, and his architect, having to redesign the addition. Staff noted the presence of several other two and a half story or three story homes within the community, likely built to add space in the presence of unique topographical features common within this northwest community.

The special condition present in this case related to the setback variance request is that this addition was started before annexation, when the City of San Antonio did not regulate development within this community. Granting the requested variances will allow the applicant to finish the project that he started years ago, in the manner of which it was originally designed.

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

By granting the variances, the spirit of the ordinance will be observed and substantial justice will be done in that the applicant would be permitted to build an addition to the existing house that is not dissimilar to other dwellings within the subdivision. Further, reducing the rear setback would allow the applicant to develop the structure upon the foundation that was laid years ago. The Board should consider that several residential districts, per Section 35-310.01, permit single-family dwellings to have ten foot rear setbacks. Additionally, justice will be served as the property most directly affected by the proposed addition is the applicant.

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-6 MSAO-1 AHOD ERZD” Residential Single-Family Military Sound Attenuation Overlay Airport Hazard Overlay Edwards Recharge Zone 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 is unlikely to substantially injure adjacent property in that the property most affected by the variance requests is owned by the applicant. Staff noted the presence of other, similarly

built structures, including those with reduced setbacks, and two and a half to three story dwellings within the community. As such, the requested variances are unlikely to detract from the essential character of the district in which it is located.

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 on this property is that the property is subject to major topographical shifts from side to side. Another unique circumstance is that this project was started prior to annexation, when no building height or setbacks were regulated by the city. The proposed addition was located on the flattest portion of the lot, which happens to conflict with the 20 foot rear setback imposed upon the property after annexation. The annexation is not the fault of the applicant, nor is it merely financial in nature.

Alternative to Applicant's Request

Denial of the requested variances will result in a total re-design of the addition, which may require the existing addition foundation, laid years ago, to be removed.

Staff Recommendation

Staff recommends **APPROVAL of the requested variances in A-15-129** based on the following findings of fact:

1. Other homes in this community enjoy two and a half to three story builds.
2. The project was started prior to annexation, when the design was not regulated by the City of San Antonio.