



City of San Antonio

Agenda Memorandum

File Number:15-4889

Agenda Item Number: 4.

Agenda Date: 9/21/2015

In Control: Board of Adjustment

Case Number: A-15-134
Applicant: Laurence Seiterle
Owner: Man of Wire, Inc.
Council District: 1
Location: 2623 N St. Mary's Street
Legal Description: Lot 1, NCB 1719
Zoning: "C-3 AHOD" General Commercial Airport Hazard Overlay District
Case Manager: Margaret Pahl AICP, Senior Planner

Request

A request for 1) the elimination of the required off-street parking, as described in Table 35-526- 3b on the subject property to allow a food service establishment with no parking; 2) the elimination of the 15 foot wide bufferyard on the south and west property lines, as described in Table 35-510-1; and 3) the elimination of the minimum 30 foot side building setback, as described in Table 35-310, to allow the existing building to remain on the property line.

Executive Summary

The subject property contains 6,440 square feet and is located in the Tobin Hill Neighborhood on N. St. Mary's Street, which is classified as a secondary arterial on the Major Thoroughfare Map. According to the Tobin Hill Neighborhood Plan, adopted in 2008, the corridor began transitioning from residential to commercial land uses with the advent of the streetcar line in the 1920's. Today, it is a vibrant neighborhood commercial corridor with improving property values. The development pattern however frequently reflects its 19th century beginnings as residential home sites, with lots that are narrow and deep and under 10,000 square feet of lot area.

The original building was constructed in 1930 and includes approximately 1,800 square feet. The oldest available Certificate of Occupancy records show that it has been both a restaurant and a tavern since 1983. In 2001, a Certificate of Occupancy was granted for an artist studio. Since that time, any new Certificate of Occpancy is required to meet current development standards. The most recent attempt was in 2012 when an applicant applied for a Certificate of Occupancy for a bar, along with plumbing and electrical permits, only to find out the lack of parking required a solution. A cooperative parking agreement was never submitted and the application was eventually closed. In addition, its commercial zoning does not permit a residential use to occupy the structure either.

The current applicant has invested in another property in this area and was granted a parking modification by the Board of Adjustment last year. Having had some success with support from the Tobin Hill Community

Association and the Board of Adjustment gave him valuable experience in the process required to overcome the problems preventing any use of this commercial property.

According to UDC Section 35-526 (b)7: “The Board of Adjustment has the authority to adjust the minimum or maximum parking requirement based on a showing by the applicant that a hardship is created by a strict interpretation of the parking regulations. Any adjustment authorized by the Board of Adjustment *shall apply only to the use in the original certificate of occupancy.*”

Since the application before the Board is for approval of a parking modification to allow a restaurant, the applicant or any future owner will only be permitted a Certificate of Occupancy (C of O) for a restaurant use. Therefore, though the property is zoned “C-3” which permits a bar or tavern, if the Board approves the requested parking modification, the location will not be permitted to gain approval for a C of O for a bar.

The other two variances are to allow the existing building to remain so close to the southern property line and to modify buffer requirements applicable to the western property line. The home to the south actually owns a driveway to the west of the subject property for access onto French Place. Currently the subject property includes a 2-story residential accessory building on the west property line, which the applicant plans to demolish and remove. The applicant hopes to repurpose this area of the lot as outdoor patio dining.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“C-3 AHOD” General Commercial Airport Hazard Overlay District	Abandoned Building

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“C-3 AHOD” General Commercial Airport Hazard Overlay District	Tire Dealer
South	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residential
East	“C-3 HE AHOD” General Commercial Historical Exceptional Airport Hazard Overlay District	Tavern
West	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residential

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the Tobin Hill Neighborhood Plan area and designated as low density mixed use. The plan specifically mentions goals for the St. Mary’s corridor as encouraging pedestrian scale neighborhood uses, with shared parking. The property is located within the boundaries of Tobin Hill Community Association, a registered neighborhood association, and 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. **The Board is asked to evaluate the public benefit of having a building occupied or vacant. In this case, the variance to allow this building to open as a food service establishment is not contrary to the public interest.**

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

The circumstance present on the subject property is its lack of off-street parking. The property has been vacant for approximately 10 years, due to the requirement for parking associated with every permitted use in the district. Therefore, literal enforcement of the ordinance has resulted 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 is represented by requiring parking on each site associated with the demands for parking generated by the proposed use. Some areas however were originally improved without space for parking, as is the case along this corridor. People frequenting businesses along here expect to have to search for parking and walk a distance to their destination. Therefore, the variance will observe 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 “C-3 AHOD” General 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 variance will allow the building, dark for ten years, to open again. Another food service establishment without parking will 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.*

Though the building is not designated historic, it still contributes to the character of the corridor. Without the variances, the only option for the property would be to demolish all structures and build a small 10 foot wide building, observing the minimum 30 foot setback, with a few parking stalls. The constraints on the property were not created by the applicant and are not merely financial.

Alternative to Applicant’s Request

The applicant could scrape the site clean and start over with a very small building on the north edge of the 40 foot wide lot.

Staff Recommendation

Staff recommends **APPROVAL of A-15-134** based on the following findings of fact:

1. The requirement to provide off-street parking has prohibited any viable use of the property for approximately 10 years; and 2. The subject property is a typical example of the business locations along this commercial corridor.