



City of San Antonio

Agenda Memorandum

File Number:15-4895

Agenda Item Number: 9.

Agenda Date: 9/21/2015

In Control: Board of Adjustment

Case Number: A-15-141
Applicant: Lowell Goodman
Owner: Larry Goodman
Council District: 2
Location: 2424 Broadway
Legal Description: Lot 13, Block 2, NCB 3856
Zoning: "C-2 CD NCD-9 RIO-1 AHOD" Commercial Shop Westfort Alliance
Neighborhood Conservation River Improvement Overlay Airport
Hazard Overlay District with a Conditional Use for a Muffler
Case Manager: Kristin Flores, Planner

Request

A request for 1) a 29 foot variance from the 30 foot minimum rear setback, as described in Table 35-310.01, to allow an open structure to remain 1 foot from the rear property line and 2) a variance from the prohibition against corrugated metal roofs, as described in the Westfort Alliance Neighborhood Conservation District (NCD) design standards Section 2.2.3, to allow the corrugated metal roof to remain.

Executive Summary

The subject property is located at 2424 Broadway Street on the corner of Broadway Street and Army Boulevard. The applicant built an open structure with an eave overhang without permits and was cited by Code. The open structure, as it stands now, is located 1 foot from the shared property line. According to Table 35.310.01, commercial uses which abut residential uses must adhere to a 30 foot rear setback. The close proximity of the open structure to the adjacent property is likely to increase water runoff and possibly cause damage to the adjacent property. As the open structure is largely comprised of metal there is a lessened concern of fire spreading to the adjacent structures. However, if the variance is granted, the applicant will be required to adhere to fire separation construction requirements.

The open structure has a corrugated metal roof that is not permitted within the Westfort Alliance Neighborhood Conservation District. According to the Plan Summary of the of the Westfort Alliance NCD, *the design standards found in this document do not intend to enforce architectural style, but are crafted to perpetuate historical arrangements of buildings, scale, massing of building volumes, celebrate the original character of buildings, de-emphasize and conceal spaces designed for the automobile, increase the amount and quality of spaces designed for interaction between neighbors and preserve the visual appeal of the entire area.* However, it is important to note the subject property is a commercial building, along the busy Broadway Commercial

Corridor, and located on the edge of the Westfort Neighborhood Conservation District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“C-2 CD NCD-9 RIO-1 AHOD” Commercial Westfort Alliance Neighborhood Conservation River Improvement Overlay Airport Hazard Overlay District with a Conditional Use for a Muffler Shop	Midas Auto Shop and Cross Fit Gym

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“C-2 NCD-9 RIO-1 AHOD” Commercial Westfort Alliance Neighborhood Conservation River Improvement Overlay Airport Hazard Overlay District	Family Dollar
South	“C-2 NCD-9 RIO AHOD” Commercial Westfort Alliance Neighborhood Conservation River Improvement Overlay Airport Hazard Overlay District and “RM-4 CD NCD-9 AHOD” Residential Mixed-Use Westfort Alliance Neighborhood Conservation Airport Hazard Overlay District	Laundromat and Residence
East	“RM-4 CD NCD-9 AHOD” Residential Mixed Westfort Alliance Neighborhood Conservation Airport Hazard Overlay District	Residence
West	“C2 RIO-1 AHOD” Commercial River Improvement Overlay Airport Hazard Overlay District	Studio and CrossFit Gym

Comprehensive Plan Consistency/Neighborhood Association

The property is located within the boundaries of Westfort Alliance Neighborhood Plan and is designated as Low Density Mixed Use in the future land use component. The subject property is located within the boundaries of the Westfort Alliance 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 defined as the general health, safety, and welfare of the public. In this case, these criteria are represented by minimum side setbacks to protect home owners, and also to provide for a sense of community. The minimum setbacks are in place to protect the neighbor from fire hazard and other possible nuisances.

The open structure, with an eave overhang one foot from the rear property line, is made largely of metal. While there is a decreased risk of fire spreading to adjacent structures there is an increased risk of water runoff and possible damage to the adjacent property. There also appears to be little room for maintenance of the structure. Therefore, allowing the open structure to remain one foot from the property line is contrary to the public interest.

The corrugated metal roof is consistent with the design of the building. Continuing the aesthetic of the building will only enhance the property and, in turn, the neighborhood. This commercial property is uniquely situated on the edge of the historic district and along a busy commercial corridor. Allowing the open structure to retain the corrugated metal roof is not contrary to the public interest.

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

Staff is recommending denial of the 29 foot variance to allow the open structure to remain one foot from the property line as there is no special condition present in this case.

The design standards are not unique and were imposed to *protect and preserve the current housing stock and establish neighborhood character*, as stated in the Plan Summary of the Westfort Alliance NCD. However, the subject property is not residential. In addition, the property is located at the edge of the Westfort Alliance NCD along Broadway, a busy commercial corridor, not the inner streets of the neighborhood. The open structures commercial use and unique location at the edge of the Westfort Alliance NCD provides a special condition for the structure to retain the corrugated metal roof.

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

Granting the requested rear setback variance will not result in substantial justice. The open structure with eave overhang, located one foot from the property line, poses an increased risk of damaging the adjacent property due to water runoff.

Many of the Westfort Alliance NCD guidelines were established to ensure the continued quality of the historical housing stock however the subject property is not residential in nature and is located along a busy commercial corridor at the edge of the Westfort Alliance NCD. Substantial justice will be served by granting the open structure to retain the corrugated metal roof due to the unique location and commercial nature of the structure.

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-2 CD NCD-9 RIO-1 AHOD” Commercial Westfort Alliance Neighborhood Conservation River Improvement Overlay Airport Hazard Overlay District with a Conditional Use for a Muffler Shop.

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 open structure, located only one foot from the adjacent property, poses an increased risk of damaging the adjacent property due to increased water runoff.

The use of corrugated metal as a roof material will not substantially injure the adjacent property or alter the essential character of the district. The entire subject property, as it stands now, is constructed of metal. Continuing the aesthetic of the building will only enhance the property and, in turn, the neighborhood.

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.*

Staff was unable to determine any unique circumstances that would warrant granting the requested variance to allow an open structure to encroach into the 30 foot rear setback.

The unique circumstance present in this case is the subject property's location at the edge of the Westfort Alliance NCD and along a busy commercial corridor. Many of the Westfort Alliance NCD guidelines were established to ensure the quality of the historical housing stock. However, the current use and appearance of the structure is not residential in nature.

Alternative to Applicant's Request

The applicant can reduce the width of the open structure to meet the 30 foot minimum set back, as described in Table 35-310.01

The applicant can replace the current corrugated metal roof with a roof permitted within the Westfort Alliance Neighborhood Conservation District.

Staff Recommendation

Staff recommends **DENIAL of a twenty nine foot variance to allow an open structure to remain one foot from the property line in A-15-141** based on the following findings of fact:

1. The close proximity of the open structure to adjacent properties increases the risk of damage due to excess water runoff;
2. There is little room for maintenance of the structure without trespass.

Staff recommends **APPROVAL of a request for a two foot variance to allow an open structure to have a corrugated metal roof in A-15-141** based on the following findings of fact:

1. The subject property is commercial in nature and is located along the busy Broadway Commercial Corridor. As such, the presence of a corrugated metal roof does not negatively impact the essential character of the neighborhood;
2. Many of the Westfort Alliance NCD guidelines were established to ensure the quality of the historical housing stock however the subject property is not residential in nature.
3. The building, as it stands now, is constructed largely of corrugated metal and allowing the open structure to continue the use of the materials used on the remainder of the building will only enhance the overall appearance of the subject property.

Attachments

- Attachment 1 - Notification Plan (Aerial Map)
- Attachment 2 - Plot Plan (Aerial Map)
- Attachment 3 - Site Plan
- Attachment 4 - Site Photos