



City of San Antonio

Agenda Memorandum

Agenda Date: December 16, 2024

In Control: Board of Adjustment Meeting

DEPARTMENT: Development Services Department

DEPARTMENT HEAD: Amin Tohmaz, Interim Department Head

CASE NUMBER: BOA-24-10300228

APPLICANT: Cesar Puente

OWNER: Cesar Puente

COUNCIL DISTRICT IMPACTED: District 1

LOCATION: 2806 Hopeton Drive

LEGAL DESCRIPTION: Lot 11, Block 8, NCB 13234

ZONING: "R-5" Residential Single-Family District

CASE MANAGER: Melanie Clark, Planner

A request for

1) A 3'-6" variance from the minimum 5' side setback requirement to allow a detached accessory structure to be 1'-6' from the side property line.

Section 35-370 (b)(1)

Executive Summary

Subject property is located northwest of Interstate 410, east of Callaghan Road, west of Vance Jackson Road, approximately 85' from the intersection of Hopeton and Tiffany Drive. On June 17, 2024, Code Enforcement responded to a Citizen Call concerning commercial automotive services being conducted on a residential property. During investigation, Code Enforcement noticed an accessory structure on the property that had been constructed without obtaining permits. The applicant, being the property owner, is requesting a 3'-6" variance to allow an accessory structure to remain 1'-6" from the side property line. Applicant is aware that no commercial vehicle services are permitted on the residential property, and any home occupation uses must follow Section 35-

378 of the United Development Code. Permits are pending the outcome of the Board of Adjustment.

Code Enforcement History

INV-ZRD-24-3170001758-Zoning UDC Investigation

INV-PBP-24-3100003387- Permit Investigation

Permit History

RES-IMP-APP24-32000894-Residential Improvement Permit Application

RES-ACC-PMT24-32100894- Accessory Building Permit

Zoning History

Subject property was annexed into the City of San Antonio by Ordinance 18115 dated, September 24, 1952, and zoned “A” Single-Family Residence District. With the adoption of the 2001 Unified Development Code (UDC), established by Ordinance 93881, on May 3, 2001, the subject property converted from “A” Single-Family Residence District to “R-5” Residential Single-Family District.

Subject Property Zoning/Land Use

Existing Zoning

“R-5” Residential Single-Family District

Existing Use

Single-Family Residence

Surrounding Property Zoning/ Land Use

North

Existing Zoning

“R-5” Residential Single-Family District

Existing Use

Single-Family Residence

South

Existing Zoning

“R-5” Residential Single-Family District

Existing Use

Single-Family Residence

East

Existing Zoning

“R-5” Residential Single-Family District

Existing Use

Single-Family Residence

West

Existing Zoning

“R-5” Residential Single-Family District

Existing Use

Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the North Sector Plan and is designated as “Suburban Tier” in the future land use component of the plan. The subject property is located within the notification area of Colonial Hills Neighborhood Association and San Antonio Texas District One Resident Association, and they have been notified of the request.

Street Classification

Piedmont Avenue is classified as a local road.

Sanders Street is classified as a local road.

Criteria for Review – Side Setback Variance

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 the minimum side setback requirements, as they ensure the accessory structure is positioned a safe and suitable distance from property lines. Staff finds a 1'-6" side setback is too close to the shared property line, limits access around structure for upkeep and will create water runoff onto neighboring lot.

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

Staff has found no special condition that would result in an unnecessary hardship. There is adequate space for the accessory structure to be constructed to meet the side setback 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 is defined as the intent of the code, rather than the exact letter of the law. The intent of the 5' side setback is to leave sufficient space between structure and abutting property. The requested variance will cause the detached accessory structure to be too close to the shared property line and neighboring property.

4. The variance will not authorize the operation of a use other than those uses specifically authorized in the zoning district in which the variance is located.

No uses other than those allowed within the district will be allowed with this variance.

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.

If granted, the accessory structure will maintain a 1'-6" side setback, which would alter the essential character of the district and appropriate use of the adjacent conforming property. Water runoff can significantly alter the use of the residential home abutting the subject property.

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 finds the plight of the owner of the property for which the variance is sought is not due to unique circumstances existing on the property. There is adequate space for the accessory structure to be constructed to meet the side setback requirements.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the side setback standards of Section 35-370 (b)(1).

Staff Recommendation – Side Setback Variance

Staff recommends Denial in BOA-24-10300228 based on the following findings of fact:

1. The distance is not suitable, as it imposes on the public interest of the adjacent neighbor by being too close to the shared property line.
2. Limits access general upkeep of the structure and will create water runoff onto neighboring lot.