Case Number:	BOA-23-10300237
Applicant:	Joseph Torres
Owner:	Michael & Gena Reyna
Council District:	7
Location:	330 Alexander Hamilton Drive
Legal Description:	Lot 16, Lot 17, and the west 20 feet of Lot 18, Block 15, NCB 7025
Zoning:	"R-6 NCD-7 AHOD" Residential Single-Family Jefferson Neighborhood Conservation Airport Hazard Overlay District
Case Manager:	Richard Bautista-Vazquez, Planner

Request

A request for a variance from the NCD-7 design guidelines, as per the Jefferson Neighborhood Conservation District Design Standards, to allow a detached accessory dwelling unit to be 780 square feet.

Executive Summary

The applicant is proposing an accessory detached dwelling unit that measures 780 square feet. The property is located within the Jefferson Neighborhood Conservation District (NCD), which indicates that the combined square footage for all detached accessory structures (garages, carports, detached dwelling) shall not exceed 40% of the square footage of the living space of the primary dwelling. The square footage of the principal structure per Bexar County Records is 1,308 square feet, which would allow a maximum detached accessory structure sizes of just under 524 square feet.

Code Enforcement History

There is no Code Enforcement history.

Permit History

Foundation Repair Permit Created On 12/09/2022
Minor Building Repair Application Created On 12/07/2022
Residential Improvements Permit Application Created On 06/21/2023 (awaiting Board of Adjustment)

Zoning History

The subject property was annexed into the City Limits of San Antonio by Ordinance 1816 dated May 5, 1940 and was zoned "B" Residence District. Ordinance 64079, dated November 20, 1986, rezoned the property to "R-1" Single-Family Residence District. Upon adoption of the 2001 Unified Development Code, the zoning converted from "R-1" Single-Family Residence District to "R-6" Residential Single-Family District, established by Ordinance 93881, dated May 3, 2001.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-6 NCD-7 AHOD" Residential Single-Family Jefferson Neighborhood Conservation Airport Hazard Overlay District	Single Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-6 NCD-7 AHOD" Residential Single-Family Jefferson Neighborhood Conservation Airport Hazard Overlay District	Single Family Dwelling
South	"R-6 NCD-7 AHOD" Residential Single-Family Jefferson Neighborhood Conservation Airport Hazard Overlay District	Single Family Dwelling
East	"R-6 NCD-7 AHOD" Residential Single-Family Jefferson Neighborhood Conservation Airport Hazard Overlay District	Single Family Dwelling
West	"R-6 NCD-7 AHOD" Residential Single-Family Jefferson Neighborhood Conservation Airport Hazard Overlay District	Single Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Near Northwest Community Plan and is designated as "Urban Low Density Residential" in the future land use component of the plan. The subject property is located within the Jefferson Heights Neighborhood Association and they were notified of the case.

Street Classification

Alexander Hamilton as a local road.

Criteria for Review - Variances

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 applicant is requesting a variance to allow a 780 square foot accessory dwelling unit. The Jefferson Neighborhood Conservation Design standards states that the combined square footage for all detached accessory structures (garages, carports, detached dwelling) shall not exceed 40% of the square footage of the living space of the primary dwelling.

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 having to conform to the maximum 40% of the square footage of the living space of the primary dwelling.

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 requested variance does not appear to observe the spirit of the ordinance as the ADU would exceed what is permitted.

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.*

Staff finds the request for the variance may likely negatively affect the adjacent neighboring property as the NCD was adopted to preserve the character of the district, and the standards are not being met by this variance.

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 due to unique circumstances existing on the property, such as being in a Neighborhood Conservation District.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the height requirements established by the Jefferson Neighborhood Conservation District.

Staff Recommendation – Jefferson NCD Design Standards Variance

Staff recommends Denial in BOA-23-10300237 based on the following findings of fact:

1. The ADU does not uphold the Jefferson Neighborhood Conservation District design standards.

Accessory Structures

The combined square footage for all detached accessory structures (garages, carports, detached dwelling) shall not exceed 40% of the square footage of the living space of the primary dwelling.

The living space square footage of the primary dwelling is determined by the most recent Bexar County tax records.

Primary Structure (actual sf)	Permitted Accessory Structures (sf of primary structure X .40)
1,000 sf	400 sf
1,100 sf	440 sf
2,100 sf	840 sf

The above table demonstrates the square footage allowed for accessory dwellings based on the existing square footage of the primary structure.

INTENT:
Accessory Structures are prominent throughout the Jefferson Neighborhood. However, accessory structures should not dominate the principal/ primary dwelling structure.

The purpose of managing square footage of accessory structures is to ensure that new and modified accessory structures are built to scale and proportion of the primary dwelling structure.

These standards are determined by the existing square footage of the primary dwelling structure.

Definitions

Accessory Structure: A subordinate building customarily incident to and located on the same lot with the main building.

Accessory Detached Dwelling Unit: A dwelling unit that is accessory, supplementary, and secondary to the principal dwelling that may be constructed as an addition to the principal structure or as an accessory to the principal structure. An accessory dwelling unit is detached from the principal dwelling. *(see Section 35-371 of the UDC for additional dwelling unit criteria.)*

Principal Building or Principal Structure: A building or structure in which the principal use of a lot or parcel is conducted. This shall include any buildings which are attached to the principal structure by a commonly shared roof or covered structure.

Principal Dwelling: A dwelling unit which constitutes the principal structure on a lot or parcel.