

Case Number:	BOA-23-10300267
Applicant:	Edgar Montano
Owner:	Amy Wanka
Council District:	7
Location:	2419 West Mistletoe Avenue
Legal Description:	The North 116.0 feet of Lot 14, Block 9, NCB 9108
Zoning:	“R-6 NCD-7 AHOD” Residential Single-Family Jefferson Neighborhood Conservation Airport Hazard Overlay District
Case Manager:	Joseph Leos, Planner

Request

A request for a variance from the Jefferson Neighborhood Conservation District Design Guidelines, as described in Section 35-335(c)(G), to allow a roof addition that does not match the pitch, configuration, and style of the existing structure, to allow a flat roof on a structure that has a gable roof.

Executive Summary

The subject property is located at 2419 West Mistletoe Avenue near Wilson Boulevard. Stemming from a building investigation, code enforcement visited the applicant’s property to discover an addition constructed without obtaining the proper permits. The applicant stated the addition was existing prior to him moving into the home. Once aware of the need for a permit and roof pitch variance, the applicant submitted a BOA application to Development Services. Roofs for additions or renovations shall match the pitch, configuration (e.g., gable, hip or flat) and style (e.g., open eaves) of the existing structure.

The Jefferson Neighborhood Conservation District was established in 2009 to address neighborhood sustainability through compatible infill construction and rehabilitation in unique areas. While the architecture of the area is an important feature, the design standards found in this plan are not intended to enforce architectural style, but rather to perpetuate historical arrangements of buildings, celebrate and prevent concealment of the original character of buildings, and increase the quality of spaces designed for interaction between neighbors and improve the visual appeal of the entire area.

Code Enforcement History

Building Investigation (INV-BLD-INV22-23200836)- September 2023

Building Investigation (INV-BLD-INV22-23200836)- October 2022

Zoning UDC Investigation (INV-ZRD-21-3170000251)- February 2021

Permit History

The issuance of a building permit is pending the outcome of the Board of Adjustment.

Electrical General Permit (MEP-ELE-PMT21-33328688) – July 2023

Plumbing General Permit (MEP-PLM-PMT23-34319996)- July 2023

Residential Repair Permit (REP-RRP-PMT-22-35304650)- November 2022

Residential Repair Permit (REP-RRP-PMT-22-35303236)- August 2022

Electrical General Permit (MEP-ELE-PMT21-33328688) – August 2021

Zoning History

The subject property was located within the original 36 square miles of the City of San Antonio and zoned “A” Single-Family Residence District. The property was rezoned by Ordinance 64079,

dated November 20, 1986, to “R-1” Single-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “R-1” Single-Family Residence District converted to the current “R-6” Commercial District.

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 Perimeter 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 boundary of the Jefferson and Woodlawn Lake Neighborhood Associations, and they have been notified of the request.

Street Classification

West Mistletoe Avenue is classified as a local road.

Criteria for Review – Roof Pitch 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 design standards to promote the architectural integrity of an already established neighborhood. The applicant is requesting a variance from the Jefferson Neighborhood Conservation District Design Guidelines to allow a roof addition that does not match the pitch, configuration, and style of the existing structure, to allow a flat roof on a structure that has a gable roof. The NCD-7 (Jefferson Neighborhood Conservation

District) provides guidelines for development, which was passed through neighborhood contribution so that historically common site/building configurations are perpetuated in the future. The current roof pitch deviates from this requirement, which is contrary to the public interest of those who want to preserve the neighborhood fabric.

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

Staff found no special conditions on the subject property that warrants the need for a roof addition that does not match the pitch, configuration, and style of the existing structure, to allow a flat roof on a structure that has a gable roof. Abiding by the ordinance would not result in an unnecessary hardship, as the roof pitch appears to allow for alterations.

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. In this case, the aim of the code is for the enforcement of the Jefferson Neighborhood Conservation District design guidelines, which provide consistent development patterns, architectural integrity, and preservation of neighborhoods. The requested variance appears to not adhere to the spirit of the ordinance, as roof standards are intended to protect and maintain the architectural character.

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 roof pitch will stay in its current deviated configuration. The Jefferson Neighborhood Conservation District enforces building materials to be consistent with the principal structure. The flat roof takes away from the original character of the home and the configuration does not perpetuate the historical arrangement of the buildings.

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.*

While staff does recognize the applicant bought the home with roof intact, the seeking of the variance is not due to unique circumstances existing on the property.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Jefferson Neighborhood Conservation District standards in Section 35-335 (c)(G).

Staff Recommendation – Roof Pitch Variance

Staff recommends Denial in BOA-23-10300267 based on the following findings of fact:

1. The Jefferson Neighborhood Conservation District design guidelines are provided to allow for consistent development patterns, architectural integrity, and preservation of neighborhoods.