

Case Number:	BOA-21-10300182
Applicant:	Mario Nerio
Owner:	Mario Nerio
Council District:	1
Location:	629 West Hollywood Avenue
Legal Description:	Lot 30 and 31, Block 22, NCB 6421
Zoning:	"R-6 NCD-5 AHOD" Residential Single- Family Beacon Hill Neighborhood Conservation District Airport Hazard Overlay District
Case Manager:	Richard Bautista-Vazquez, Planner

Request

A request for 1) a 1% variance from the Beacon Hill Neighborhood Conservation design standards requirement, as described in Section 35-335, of a 25% minimum of the surface area of each story on the front façade shall be dedicated to window coverings to allow 24% of the surface area of the front façade to be window coverings and 2) a 2' 8" variance from the minimum 5' side setback requirement, as described in Section 35-310, to allow an addition to be 2' 4" from the side property line.

Executive Summary

The subject property is located on West Hollywood Avenue and is within the Beacon Hill Neighborhood Conservation District. The applicant has constructed an addition to the rear of the home to cover a water heater. The applicant provided a survey which shows the addition is 2'4" from the side property line. Additionally, the applicant has removed several windows on the front façade of the home in order to relocate the front door. The proposed front door is to be placed in the area where some of the windows were previously located. The removal of the windows caused the percentage of the newly constructed window coverings of the front façade to fall below the required 25% surface area of window coverings by 1%.

Code Enforcement History

A Permit Investigation was opened on August 12, 2021 and on November 18, 2021 for Building Without a Permit and the cases are pending resolution.

Permit History

No relevant permits have been issued. A permit for the addition is pending the outcome of the BOA Meeting.

Zoning History

The subject property was located within the Original City Limits of San Antonio and was zoned "B" Residence District. Ordinance 86704, dated September 25, 1997, 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 the current "R-6" Residential Single-Family District, established by Ordinance 93881, dated May 3, 2001.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
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"R-6 NCD-5 AHOD" Residential Single- Family Beacon Hill Neighborhood Conservation District Airport Hazard Overlay District	Single-Family Dwelling
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Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-6 NCD-5 AHOD" Residential Single- Family Beacon Hill Neighborhood Conservation District Airport Hazard Overlay District	Single-Family Dwelling
South	"R-6 NCD-5 AHOD" Residential Single- Family Beacon Hill Neighborhood Conservation District Airport Hazard Overlay District	Single-Family Dwelling
East	"R-6 NCD-5 AHOD" Residential Single- Family Beacon Hill Neighborhood Conservation District Airport Hazard Overlay District	Single-Family Dwelling
West	"R-6 NCD-5 AHOD" Residential Single- Family Beacon Hill Neighborhood Conservation District Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Midtown Neighborhood Plan and is designated “Low Density Residential” in the future land use component of the plan. The subject property is located within the Beacon Hill Neighborhood Association and were notified of the case.

Street Classification

West Hollywood is classified 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 from the side setback requirement in order to permit an addition. The existing home is currently about 2’ from the side property line, according to the submitted survey. The addition to the home was constructed to enclose an existing water heater, and the survey has the side of the addition 2’ 4” from the side property line. The variance does not appear to be contrary to the public interest.

A variance is also being requested from the Beacon Hill NCD design standards for the window coverings of the front façade. Several windows were removed from the front façade of the home which has decreased the percentage of window coverings for the home. The NCD is in place for the immediate area in order to maintain the essential character of the district, and the variance appears to be contrary to the public interest.

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 remove the structure to 5' away from side property lines which would require a possible demolition of the structure and relocating the water heater should they wish to keep it enclosed.

No unnecessary hardship is found for the variance to the window coverings on the front façade. If a Minor Repairs Permit had been pulled, the applicant would have been notified of the NCD 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 setback of the existing home is about 2' and the addition currently is setback 2' 4" from the side property line, according to the survey provided by the applicant. The spirit of the ordinance appears to be observed as the addition is in alignment with the existing structure.

The NCD design standards do require a minimum coverage of windows for the front façade of homes within the NCD. The removal of the windows do not appear to maintain the spirit of the ordinance nor do they provide substantial justice.

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 a 2' 8" variance from the 5' side setback requirement will not alter the essential character of the district and does not appear to injure the adjacent property as the existing structure is currently setback about 2'. The addition was placed in alignment with the existing home.

The Beacon Hill NCD design standards are specifically in place to maintain 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.*

Staff finds the plight of the owner of the property for which the side setback variance is sought is due to unique circumstances existing on the property such as the small amount of available space and the location of the existing dwelling.

There do not appear to be any unique circumstances existing on the property for the variance to the Beacon Hill NCD design standards.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the required side setback per UDC 35-310 and the front façade design standards requirement as described in the Beacon Hill NCD.

Staff Recommendation – Side Setback Variance

Staff recommends **Approval** in **BOA-21-10300182** based on the following findings of fact:

1. The structure will not negatively affect the neighboring properties,
2. There appears to be no runoff issues

Staff Recommendation – Beacon Hill NCD Design Standards Variance

Staff recommends **Denial** in **BOA-21-10300182** based on the following findings of fact:

1. The variance is not in accordance with the Beacon Hill Neighborhood Conservation District design standards.