



City of San Antonio

Agenda Memorandum

Agenda Date: April 15, 2024

In Control: Board of Adjustment Meeting

DEPARTMENT: Development Services Department

DEPARTMENT HEAD: Michael Shannon

CASE NUMBER: BOA-24-10300043

APPLICANT: Restaurant Repair Company

OWNER: AMKELI LLC

COUNCIL DISTRICT IMPACTED: District 2

LOCATION: 9911 Interstate 35 North

LEGAL DESCRIPTION: Lot 6, Block 1, NCB 14042

ZONING: "I-1 IH-1 AHOD" General Industrial Northeast Gateway Corridor Overlay Airport Hazard Overlay District

CASE MANAGER: Melanie Clark, Planner

A request for

1) A request for a 40' variance from the minimum 60' Northeast Gateway Corridor front setback to allow a structure to be 20' from the corridor front setback. (Section 35-339.03)

Executive Summary

The subject property is located within the Northeast Gateway Corridor along Interstate 35 North, south of Thousand Oaks Drive, near Whirlwind Drive. The applicant, with the property owner's authorization, is requesting a 40' variance to allow a structure, referred as Building 2, to be located 20' from the corridor front setback property line. The Northeast Gateway Corridor was established by Ordinance 99358 dated, June 24, 2004, and requires a 60' front setback for properties fronting Interstate 35. In reviewing historical aerial images, the structure was built, without a permit, sometime between 2019 and 2021. The issuance of a building permit is pending the outcome of the Board of Adjustment.

Code Enforcement History

No Code Enforcement history found.

Permit History

COM-PRJ-APP24-39800165

Zoning History

The subject property was annexed into the City of San Antonio by Ordinance 33007 dated, February 17, 1965, and zoned Temporary "A" Single-Family Residence District. The property was rezoned by Ordinance 43555 dated, March 14, 1974, from "Temporary "A "Single-Family Residence District to "I-1" Light Industry District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned "I-1" Light Industry District converted to the current "I-1" General Industrial District.

Subject Property Zoning/Land Use**Existing Zoning**

"I-1 IH-1 AHOD" General Industrial Northeast Gateway Corridor Overlay Airport Hazard Overlay District

Existing Use

Appliance Repair Shop

Surrounding Property Zoning/ Land Use**North****Existing Zoning**

"I-1 IH-1 AHOD" General Industrial Northeast Gateway Corridor Overlay Airport Hazard Overlay District

Existing Use

Storage Warehouse

South**Existing Zoning**

"I-1 IH-1 AHOD" General Industrial Northeast Gateway Corridor Overlay Airport Hazard Overlay District

Existing Use

Automotive Storage Garage

East**Existing Zoning**

ROW

Existing Use

IH-35 E

West**Existing Zoning**

“C-3-5 IH-1 AHOD” General Commercial Northeast Gateway Corridor Overlay Airport Hazard Overlay

Existing Use

Motel

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Northeast I-35 and Loop 410 Area Regional Center and is designated as “Heavy Industrial” in the future land use component of the plan. The subject property is not located within the boundary of a registered neighborhood association.

Street Classification

Interstate 35 North is classified as an expressway.

Criteria for Review – Gateway Corridor Front 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 meeting the minimum distance requirements for Gateway Corridor setbacks. The requested front setback variance will allow a structure to negatively affect the right of way along the front property line.

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 constructing the building to meet the minimum 60’ front setback. The subject property is large enough to maintain a structure with the required setback.

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

The requested variance is to allow a reduced front setback within a National Highway System High Priority District. Due to the size of the property and the reduced distance from the corridor, this will not observe the spirit of the ordinance.

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 that the structure was built too close to the front property line for and that the requested variance would injure neighboring conforming properties in the surrounding area.

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. The applicant can build a structure that meets their needs outside the 60' from setback.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Urban Corridor standards in Section 35-339.03 and Ordinance 99358.

Staff Recommendation – Gateway Corridor Front Setback Variance

Staff recommends Denial in BOA-24-10300043 based on the following findings of fact:

1. The structure being only 20' from the Gateway Corridor front setback negatively affects the right of way along the front property line; and
2. The request appears out of character for the area and injures the neighboring properties.