

Legislation Details (With Text)

File #:	22-656	Name:	
Type:	Report	Status:	Individual Item Ready
File created:	6/7/2022	In control:	Board of Adjustment
On agenda:	6/23/2022	Final action:	
Title:	ZB22-0010 Hold a public hearing and consider a request for a variance to Veramendi DDCCD Section 21.3.1.1A to allow a proposed single-family dwelling within 150 feet from the Oak Run Lot Line to be two stories in height instead of one-story within the Veramendi Project, addressed at 309 Vuelo Street.		
Sponsors:			
Indexes:			
Code sections:			
Attachments:	1. Aerial Map, 2. Application, 3. Elevation and Site Plan, 4. Photos, 5. Notification Packet, 6. DDCCD Section 21		

Date	Ver.	Action By	Action	Result
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Presenter/Contact

*Applicant: David Weekley Homes - Johnny Zunker
LSutcliffe@dwhomes.com*

SUBJECT:

ZB22-0010 Hold a public hearing and consider a request for a variance to Veramendi DDCCD Section 21.3.1.1A to allow a proposed single-family dwelling within 150 feet from the Oak Run Lot Line to be two stories in height instead of one-story within the Veramendi Project, addressed at 309 Vuelo Street.

BACKGROUND / RATIONALE:

Case #: ZB22-0010

Applicant: David Weekley Homes (Johnny Zunker)
3424 Paesanos Pkwy Suite 202
San Antonio, TX 78231
LSutcliffe@dwhomes.com

Staff Contact: Maddison O'Kelley
(830) 221-4056 - mkelley@nbtexas.org

The property is located within the Veramendi project, a master-planned community within the ETJ in Comal County. A Development Agreement for the Veramendi project was approved by City Council in February 2013. The Development Agreement and its Exhibits contain documents that set the regulatory framework for future development in Veramendi. The Development Agreement established the city's regulatory authority to review building permit applications for compliance with development standards set forth in the Development & Design Control Document (DDCCD). The DDCCD establishes

principles, objectives, standards, and procedures for development within Veramendi.

The subject property is located immediately adjacent to the Oak Run Subdivision and the New Braunfels city limits line, on the west end of the project area. The property is located within the Neighborhood (Mixed-Density) Residential Planning Area and is subject to the development standards adopted for the planning area it is located in.

DDCD Section 21.3.1.1A states where a property is located within 150 feet of the Oak Run subdivision, such as the subject property, the maximum allowable building height is one-story. The applicant submitted a building permit application to the city (RP2021-2411) to construct a new single-family dwelling on the property in July of 2021. The building permit plans and scope of work indicated a two-story home was proposed to be constructed and the permit was incorrectly approved and issued by the city. Construction of the home began and, due to inquiries from citizens, city staff became aware of the height of the structure and a stop-work order was issued in May of 2022. Therefore, the subject structure is partially constructed.

The applicant is requesting a variance to complete the construction of the house as a two-story structure. If the variance is approved, the overall height of the house will be 28 feet and 5 inches from grade and the total square foot area will be 4,140 square feet.

Variances to the standards set forth in the DDCD are subject to Section 2.2-3(a) of the Zoning Ordinance, which states the ZBA may authorize a variance from the zoning regulations only upon finding all of the following facts:

- 1) **That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this Chapter would deprive the applicant of the reasonable use of land;** (The applicant states the special circumstance affecting the land that warrants the variance is the proposed height of the home was overlooked by the home builder, City of New Braunfels, and community HOA. Staff acknowledges the permit plans for the proposed house do not comply with the standards set forth in the DDCD and the permit was issued, however, the applicant is aware of the development restriction and overlooking this with the submittal is not a special circumstance or condition that affects the land itself. Staff notes that one of the lots behind the subject property located within the Oak Run is improved with a two-story home with a detached garage at the rear.) **and**
- 2) **That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;** (The applicant did not provide a reason as to why the variance is necessary to preserve a substantial property right. Staff notes the substantial property right to use the property for residential dwelling is not removed due to the limitation on the number of stories allowed for main structures and the ability to construct a two-story home is not considered a substantial property right.) **and**
- 3) **That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property within the area;** (The applicant states the variance will not be detrimental to the public health, safety or welfare, or injurious to other property within the area. Staff acknowledges the impact to the surrounding area is likely minimal and that one of the lots behind the subject property located within the Oak Run is improved with a two-story home with a detached garage at the rear.) **and**
- 4) **Granting of the variance will not have the effect of preventing the orderly use of other land within the area in accordance with the provisions of this Chapter;** (The applicant states the variance should not prevent orderly use of other land within the area. While

granting the proposed variance does not appear to pose a potential negative effect preventing orderly use of other land within the area, all neighboring properties within 150 feet of the Oak Run subdivision will be required to be a maximum one-story in height.) **and**

5) That an undue hardship exists; (The applicant did not provide an undue hardship to the land itself. Staff has not identified an undue hardship of the land that necessitates a variance to allow a home that is two-stories in height, but notes that one of the lots behind the subject property located within the Oak Run is improved with a two-story home with a detached garage at the rear.) **and**

6) That the granting of a variance will be in harmony with the spirit and purpose of these regulations. (The applicant states granting of the variance will be in harmony with the spirit and purpose of the City's regulations.)

Per Section 2.2-3 of the Zoning Ordinance, a variance shall not be granted to relieve a self-created or personal hardship, nor based solely on economic gain or loss, nor shall it permit any person the privilege in developing a parcel of land not permitted by Chapter 144 to other parcels of land in the particular zoning district. No variance may be granted which results in undue hardship upon another parcel of land.

GENERAL INFORMATION:

Size:

Lot area: 8,363 square feet

Lot depth: Varies 120 feet to 130 feet

Lot width: Varies 52 feet to 81 feet

Variance Request Due to Notice of Violation:

No

Surrounding Zoning and Land Use:

North - Veramendi Project / Single Family Dwelling

South - Veramendi Project / Single Family Dwelling

East - Veramendi Project / Single Family Dwelling

West - R-1A-6.6 / Single Family Dwellings

Notification

Public hearing notices were sent to 15 owners of property within 200 feet. Staff has not received any responses in favor or objection.