



City of San Antonio

Legislation Details (With Text)

File #: 17-3812

Type: Zoning Case

In control: Board of Adjustment

On agenda: 6/19/2017

Title: A-17-109: A request by Walter Perez for a variance to allow a carport one foot from the side property line, located at 14415 Boxer Bay. Staff recommends Denial with an Alternate Recommendation. (Council District 10)

Sponsors:

Indexes:

Code sections:

Attachments: 1. BOA17-109 Attachments

Date	Ver.	Action By	Action	Result
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Case Number: A-17-109

Applicant: Walter Perez

Owner: Walter Perez

Council District: 10

Location: 14415 Boxer Bay

Legal: Lot 85, Block 1, NCB 16587

Description:

Zoning: "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District

Case Manager: Oscar Aguilera, Planner

Request

A request for a 19 foot variance from the 20 foot platted side setback to allow a carport one (1) foot from the side property line, as described in Section 35-516 (b).

Executive Summary

The subject property was platted as part of the Raintree Subdivision Unit 12, recorded in 2001. The subdivision plat includes a 20 foot platted side setback. The submitted application indicated a request to have a carport with the posts 10 feet from the property line; however, after City staff conducted a site visit, it was revealed that the applicant built the carport close to the side property line. In addition, an area canvass of the neighborhood revealed that there are no carports within the area. The applicant did attempt to obtain a permit but was issued a stop-work order, as the carport encroached into the side setback.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
South	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
East	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
West	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The property is within the North Sector Plan and designated as Suburban Tier land use. The subject property is not located within the boundaries of any neighborhood association.

Criteria for Review

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 setback limitations to protect property owners and create a cohesive streetscape. The City’s zoning setback of five feet provides this streetscape protection in other areas. The carport is currently placed close to the side property line. A 10 foot side setback would lessen the obstruction for pedestrians and vehicles.

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

There is no hardship that results from the enforcement of the ordinance. The owner has an existing driveway in the front of the home and a two-car garage. Similar to the adjacent property, the applicant could locate the carport within the property.

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

The spirit of the ordinance represents the intent of the requirement. The City zoning setback is five feet to provide adequate clearance and separation of properties, however, the current carport’s location does not meet this spirit.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*

The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the “R-6” Residential Single-Family District.

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.

A 10 foot variance from the 20 foot platted setback for a 10 foot side setback would be in better harmony with the district, as the minimum side setback established for the district is 10 feet. The applicant has space to place portion of the carport within the rear backyard of his property without having to damage any trees or alter the dwelling’s structure. In addition, the applicant has a two car garage. The alternate recommendation of a 10 foot setback will not interfere with clear vision for the neighbor’s property.

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.

The City of San Antonio has established a five feet side setback that is applied in all residential districts. However, the side setbacks for this neighborhood subdivision are 10 to 20 feet. Therefore, the alternative recommendation of a 10 feet side setback will keep the side setback consistent with the neighborhood. Staff could not identify any property related hardship that warrants approval of the requested variance.

Alternative to Applicant’s Request

The applicant could remove the platted setback and build to the 10 foot zoning setback.

Staff Recommendation

Staff recommends **DENIAL of A-17-109 with an alternative recommendation for 10 foot variance from the 20 foot platted setback to allow a carport 10 feet from the side property line** based on the following findings of fact:

1. The approval of a 10 foot variance will not present risk to pedestrian or motorist, and would not interfere with Clear Vision;
2. A 10 foot setback will exceed the required 5 foot minimum side setback established by the City code;
3. The variance, as requested, would disrupt the character of the district as the minimum side setback established in the subdivision is 10 feet.