



City of San Antonio

Legislation Details (With Text)

File #: 17-1130

Type: Zoning Case

In control: Board of Adjustment

On agenda: 1/9/2017

Title: A-17-028: A request by Jerry Esquivel, Jr. for 1) a special exception to allow a six foot solid fence in portions of the front yard; 2) an 11 foot variance from the 15 foot platted front setback to allow a carport to be four feet from the front property line; and 3) a five foot variance from the minimum five foot side setback to allow a carport on the side property line, located at 329 W. Amaya Street. Staff recommends Denial with an Alternate Recommendation. (Council District 5)

Sponsors:

Indexes:

Code sections:

Attachments: 1. A-17-028 Photos, 2. A-17-028 Site Plan, 3. BOA17-028NPA, 4. BOA17-028PP

| Date | Ver. | Action By | Action | Result |
|------|------|-----------|--------|--------|
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Case Number: A-17-028

Applicant: Jerry Esquivel, Jr.

Owner: Jerry Esquivel, Jr.

Council District: 5

Location: 329 W. Amaya Street

Legal: Lot 33 and 34, Block 17, NCB 11337

Description:

Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District

Case Manager: Shepard Beamon, Senior Planner

Request

A request for 1) a special exception to allow a six foot solid fence in portions of the front yard, as described in Section 35-514 (c)(2); 2) an 11 foot variance from the 15 foot platted front setback, as described in Section 35-516 (o), to allow a carport to be four feet from the front property line; and 3) a five foot variance from the five foot side setback to allow a carport to be on the side property, as described in Section 35-310.01(b).

Executive Summary

The property is located within the Villa del Carmen subdivision, which was established in 1943 and includes a 15 foot platted front setback. The metal carport is undergoing construction and is nearing completion. The owner was cited by code enforcement and wishes to obtain the proper documentation before continuing with the project. The home is built 25 feet from the front property line and the owner wishes to extend a carport four feet from the front property line, thus the request for the 11 foot variance. The existing six foot solid fence extends as close as eight feet to the front property line on both sides of the lot.

Subject Property Zoning/Land Use

| Existing Zoning | Existing Use |
|--|------------------------|
| “R-4 AHOD” Residential Single-Family Airport Hazard Overlay District | Single-Family Dwelling |

Surrounding Zoning/Land Use

| Orientation | Existing Zoning District(s) | Existing Use |
|--------------------|--|-------------------------|
| North | “R-4 AHOD” Residential Single-Family Airport Hazard Overlay District | Single-Family Dwellings |
| South | “R-4 AHOD” Residential Single-Family Airport Hazard Overlay District | Single-Family Dwellings |
| East | “R-4 AHOD” Residential Single-Family Airport Hazard Overlay District | Single-Family Dwellings |
| West | “R-4 AHOD” Residential Single-Family Airport Hazard Overlay District | Single-Family Dwellings |

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the West/Southwest Sector Plan and is currently designated General Urban Tier in the future land use component of the plan. The subject property is not located within the boundaries of a neighborhood association.

Criteria for Review

Variations for Carport

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 carport currently extends the entire length of the home and is 15 feet wide. Currently, the carport can cover at least three vehicles. Extending the carport in the platted 15 foot setback would be contrary to the public interest. The carport could be reduced three feet on the side and still provide necessary coverage for vehicles. Locating the structure on the side property line could increase water runoff and require maintenance with trespass.

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

Staff could not identify any special conditions that warrant the granting of the variances. The carport adequately covers three vehicles and meets the platted front setback.

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

The spirit of the ordinance will not be observed as the carport not only encroaches into the platted front setback, but also the City required 10 foot front setback. The spirit of the ordinance is not intended to grant special privilege with no special conditions present. Approval of the variances will not result in substantial justice as

there is already adequate parking coverage on the property.

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-4 AHOD” Residential Single-Family Airport Hazard Overlay 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.*

Constructing a considerably long carport close to the adjacent property could reduce access to equal light and air for the adjacent property. Further, the elimination of the side setback does not provide room for maintenance without trespass.

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 owner has expressed concern of damage to their vehicles. Since the driveway is 15 feet wide and the carport covers several vehicles without encroaching in the platted front setback, there are no unique circumstances that make the granting of both variances necessary.

Special Exception for Fence

According to Section 35-482(h) of the UDC, in order for a special exception to be granted, the Board of Adjustment must find that the request meets each of the five following conditions:

A. *The special exception will be in harmony with the spirit and purpose of the chapter.*

The UDC states the Board of Adjustment can grant a special exception for a fence height modification up to eight (8) feet. The additional fence height is intended to provide safety, security, and privacy of the applicant. If granted, this request would be in harmony with the spirit and purpose of the ordinance.

B. *The public welfare and convenience will be substantially served.*

In this case, these criteria are represented by maximum fence heights to protect home owners, and also to provide for a sense of community. A six foot fence was built to provide privacy for the family and their personal property. This is not contrary to the public interest.

C. *The neighboring property will not be substantially injured by such proposed use.*

The fence will create enhanced security for the subject property and is highly unlikely to injure adjacent properties. Further, the fence does not obscure the neighboring property’s vision from their driveway and does not interfere with the Clear Vision requirements.

D. *The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought.*

The fencing does not detract from the character of the neighborhood. It is not directly on the front property line and is unlikely to go noticed.

E. *The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district.*

The purpose of the fencing standards is to protect the health, safety and general welfare of the public, enhance property values, and improve the appearance of the community. The owner wishes to keep the six foot fencing to provide additional screening and privacy for their family. Therefore, the requested special exception will not weaken the general purpose of the district.

Alternative to Applicant's Request

The applicant could construct a carport to meet the side and platted front setback.
The applicant could remove, or lower the height of, the six foot front yard fencing.

Staff Recommendation

Staff recommends **DENIAL** of the requested variances in A-17-028 with an alternate recommendation of a two foot variance to allow a carport to be three from the side property line based on the following findings of fact:

1. The carport currently covers three vehicles without encroachment into the platted front setback;
2. A three foot setback would provide a 12 foot wide carport and enough room for maintenance.

Staff recommends **APPROVAL** of the requested special exception in A-17-028 based on the following findings of fact:

1. The fencing does not interfere with Clear Vision requirements;
2. The fencing does not detract from the character of the neighborhood.