



City of San Antonio

Legislation Details (With Text)

File #: 17-3632

Type: Zoning Case

In control: Board of Adjustment

On agenda: 6/5/2017

Title: A-17-115: A request by Marco Garcia for 1) a 4 foot variance to allow a carport 1 foot from the side property line, 2) a variance from the eave overhang limitation to allow an eave on the side property line, and 3) a 25% variance from the 50% impervious coverage limitation to allow 75% of the front yard impervious cover, located at 236 E. Dullnig Court. Staff recommends Denial. (Council District 3)

Sponsors:

Indexes:

Code sections:

Attachments: 1. A-17-115 Attachments

Date	Ver.	Action By	Action	Result
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Case Number: A-17-115

Applicant: Marco Garcia

Owner: Marco and Ramon Garcia

Council District: 3

Location: 236 Dullnig Court

Legal: Lot 17, Block 11, NCB 7643

Description:

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

Case Manager: Margaret Pahl, AICP, Senior Planner

Request

A request for a 1) 4 foot variance to allow a carport 1 foot from the side property line, as described in Table 35-310, 2) a variance from the eave overhang limitation to allow an eave on the side property line as described in Section 35-516 (j), and 3) a 25% variance from the 50% impervious coverage limitation, described in Table 515-1, to allow 75% of the front yard impervious cover.

Executive Summary

The subject property is located in the Hot Wells Subdivision and is not the owner's homestead. The owner purchased the property in 2013 and recently constructed a carport 32 feet in length, and 20 feet wide without permits. The carport is all metal, slopes toward the roof of the home, but is built very near the property line. The applicant estimates that it is 18 inches from the property line, but the eave overhang may not have been included in that estimate. Therefore, two variances are required to maintain the carport as constructed. A third variance is required to allow the amount of impervious coverage in the front yard. The driveway is more than 20 feet in width and the second driveway curb cut for the 50 foot wide lot, creating issue the impervious

coverage of the front yard. Permits are not required for flat work on private property, but construction inside the City’s right of way requires a permit and an authorized contractor. No permits were secured for the additional curb cut.

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 Dwelling
South	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
East	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
West	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the South Central Community Plan area and designated as Low Density in the future land use component of the plan. The subject property is located within the boundaries of Hot Wells, a registered neighborhood association. As such, they were notified and asked to comment.

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 minimum setbacks and fire separation. The requested variance to allow the carport as constructed is contrary to public interest. In addition, the amount of impervious coverage does not allow for stormwater management and negatively impacts the public drainage infrastructure, making the variances contrary to public interest. While the staff has recommended alternate variances to allow other carports closer to the side property line than the five foot setback allows, this carport is wide enough to provide the setback and still allow room for several vehicles to park.

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

Literal enforcement would require that the owner provide a 5 foot side setback, necessary to provide fire separation and allow maintenance without trespass. The owner is requesting variances to allow the carport

structure to remain on the side property line, and 75% of the front yard impervious. The owner has not submitted evidence that complying with the provisions of the code would result in an unnecessary hardship.

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 intent of the side setback is to provide open space for air and light, allow room for maintenance without trespass and reduce fire spread potential. The intent of the impervious coverage limitation is to reduce the stormwater impact on the drainage system and allow rainwater to recharge the groundwater. The spirit of the ordinance would not be observed if these variances were granted.

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.*

The variance will not authorize the operation of a use other than those uses specifically authorized 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.*

The applicant is requesting a variance from the minimum side setback to allow the recent addition of a metal carport on the property line. The carport is elevated above the roofline and detracts from the character of the surrounding district. If a variance is granted and the carport remains, either in its current location or an alternate location, its structural integrity must be guaranteed by a licensed engineer.

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 plight of the owner is not unique; they did not seek a building permit and were unaware of the minimum standards regarding side setbacks and limitations on impervious coverage. The property has an existing side yard that provides adequate room for parking and the setback.

Alternative to Applicant’s Request

Denial of the requested variance would result in the applicant having to reduce the width of the carport 15 feet wide to meet the 5 foot side setback and remove some of the impervious coverage.

Staff Recommendation

Staff recommends **DENIAL of the requested variance in A-17-115** based on the following findings of fact:

1. The owner has no room for maintenance or fire separation with the carport in its current location; and
2. The impervious coverage variance to allow 75% of the yard to be impervious would negatively impact stormwater management policies.