



City of San Antonio

Legislation Details (With Text)

File #: 18-6059

Type: Zoning Case

In control: Board of Adjustment

On agenda: 11/5/2018

Title: A-18-163: A request by Rubio Porfirio for 1) a 13' variance from the 20' rear setback to allow an attached carport to be 7' from the rear property line, 2) a 16' variance from the 20' rear setback requirement to allow a structure to be 4' away from the rear property line, located at 2020 San Fernando Street. Staff recommends Denial with an Alternate Recommendation. (Council District 5)

Sponsors:

Indexes:

Code sections:

Attachments: 1. A-18-163 Attachments

Date	Ver.	Action By	Action	Result
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Case Number: A-18-163

Applicant: Rubio Porfirio

Owner: Rubio Porfirio

Council District: 5

Location: 2020 San Fernando Street

Legal: Lots 2A and 2B, Block 1, NCB 2423

Description:

Zoning: "R-4 MLOD-2 MLR-2 AHOD" Residential Single-Family
Lackland Military Lighting Overlay Military Lighting
Region 2 Airport Hazard Overlay District

Case Manager: Dominic Silva, Planner

Request

A request for 1) a 13' variance from the 20' rear setback, as described in Section 35-310.01, to allow an attached carport to be 7' from the rear property line, and 2) a 16' variance from the 20' rear setback requirement to allow a structure to be 4' away from the rear property line.

Executive Summary

The subject property is located at 2020 San Fernando Street, approximately 98' east of South Navidad Street. Code Enforcement initiated this case on July 18th, 2018 due to new construction of an attached carport and room addition with no permits. The applicant is requesting to keep the carport, room addition, and patio as is within the rear setback. The room addition is built in line with the existing residence, thus no side setback

variances are required along the west property line.

The general character of the neighborhood consists of single-family residences with the majority of properties having attached carports and 3' side setbacks on condensed lots.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling
South	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling
East	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling
West	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The property is located within the boundaries of the Guadalupe Westside Neighborhood Plan with a future land use designation of Low Density Residential. The subject property is within the Guadalupe Westside Neighborhood Association. As such, they were notified and asked to comment.

Street Classification

San Fernando is classified as a Local street.

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 variance for the carport is not contrary to the public interest. The carport is in line with many attached carports within the district and the applicant has adhered to the front and side setbacks.

Staff does find the structure to the rear to be too close to the rear property line with concerns of consistent overbuilt lots within the district. As many of the surrounding properties have equally overbuilt lots, fire separation is a concern for staff.

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

Many properties in the district lack adequate parking space and, because of compact lot design, park curbside. The applicant has designed the carport to adhere to the front and side setbacks thereby minimizing storm water runoff and maximizing fire separation considerably.

Staff cannot find any special conditions present that warrant a structure to be 4' away from the rear property line. As the applicant's property and neighboring properties are overbuilt, fire control and storm water management is a concern for staff.

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

The spirit of the ordinance is the intent of the code, rather than the strict letter of the law. The intent of the setback limitation is to prevent fire spread, allow adequate space for maintenance, and encourage proper storm water drainage. The applicant has followed all intents of this law maintaining the carport within the front property.

With no storm water controls present and a large wood-built carport built within a compact lot, staff cannot support the requested variance to allow an additional structure to be built 4' away from the rear property line when the property is nearly overbuilt.

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

The variance will not authorize the operation of a use other than those uses specifically authorized in the "R-4 MLOD-2 MLR-2 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District.

4. *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 requested variance to allow a carport to be 7' away from the rear property line does not substantially injure the appropriate use of adjacent conforming properties or alter the character of the district. The carport follows the side and front setback requirements and minimizes fire and storm water control concerns and follow a district norm of compact lots and attached carports.

Staff finds the variance to allow a structure to be 4' away from the rear property line increases fire

spread and storm water management within a compact lot that is nearly overbuilt. Although the trend within the surrounding properties is expanding upon the original structure, staff is concerned of fire safety and upkeep without trespass.

5. *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 unique circumstances existing on the property are neither due to the general conditions of the district, nor due to the owner, and is not financial in nature. The character of smaller lot sizes within the district is uniform, leaving little room for proper building setbacks. This is created by the proliferation of older, outdated substandard lots currently zoned "R-4." The applicant has adhered to the side and front setback, leaving only the rear setback for the Board to consider relief from.

Staff could not find any unique circumstances that warrants granting the requested 16' variance to allow a structure to be 4' away from the rear property line. Had the applicant applied for a permit, staff could have assisted with an alternative design that benefits the applicant and the community.

Alternative to Applicant's Request

Denial of the variance request would result in the owner having to meet the required setbacks and adhere to Section 35-310.01.

Staff Recommendation

Staff recommends **Approval** of 1) a 13' variance from the 20' rear setback to allow an attached carport to be 7' from the rear property line in A-18-163, based on the following findings of fact:

1. The carport adheres to the side and front setback requirements with adequate space to more efficiently mitigate storm water runoff, and;
2. There are many attached carports on compact lots within the immediate area staff inspected that follow the same design as the applicant's carport;

Staff recommends **Denial** of 2) a 16' variance from the 20' rear setback requirement to allow a structure to be 4' away from the rear property line in **A-18-163**, based on the following findings of fact:

1. With a large carport constructed on the compact lot, new structures built within the rear property 4' away from the rear property line will result in the lot being overbuilt, and;
2. Fire is a concern for staff as much of the surrounding properties have lots that are equally overbuilt with no measure of storm water controls present.