



City of San Antonio

Agenda Memorandum

File Number: 16-3286

Agenda Item Number: 8.

Agenda Date: 5/23/2016

In Control: Board of Adjustment

Case Number: A-16-081
Applicant: Refugio E. Lopez
Owner: Refugio E. Lopez
Council District: 5
Location: 35 Linden Avenue
Legal Description: Lot 20, Block 1, NCB 10601
Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager: Kristin Flores, Planner

Request

A request for a variance for the elimination of the required five foot side yard setback, as described in Section 35-310.01, to allow an attached carport to be constructed along the side property line.

Executive Summary

The applicant currently resides in the Terra Linda Subdivision, a subdivision platted in 1952. The applicant purchased the subject property in 1996. The applicant states they are replacing a carport which was on the property when the owners bought the home. Per the applicant the carport was taken down in the late 1990s. Currently there is not a carport on the property. The applicant has pulled a permit to build a carport, but wants to build outside the scope of the permit. For this reason, the application is requesting a variance to build a carport along the side property line.

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 Nogalitos Community Plan and currently designated as Low Density Residential in the future land use component of the plan. The subject property is within the Tierra Linda Neighborhood Association. As such, the neighborhood association was notified and asked to comment.

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 setbacks that help to ensure that we have uniform, safe development within the City of San Antonio. The carport, as proposed, is likely to increase water runoff and increase risk of fire spread to adjacent property. Neighboring primary structures would be as close as five feet from one another. Staff finds that allowing the carport to be located on the side property line is contrary to the public interest.

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

Staff was not able to find a special condition that should allow the entire side yard setback to be eliminated. The applicant has adequate space available to design a carport that meets a three foot side yard setback.

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

Granting the requested variance will not result in substantial justice as the proposed carport will increase the risk of fire spread and water runoff to adjacent properties.

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.*

If a carport is built on the property line there will be an increase in the water runoff and an increased risk of fire spread to adjacent conforming properties. Additionally, there would be no space for maintenance without trespass. Staff believes a three foot side setback would be more appropriate.

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.*

In this case, there is not a unique property related hardship that would justify the applicant building a carport on the side property line and leaving only five (5) feet of space between primary structures.

Alternative to Applicant's Request

The applicant could build a carport three feet from the side setback.

Staff Recommendation

Staff recommends **DENIAL of variance request in A-16-081** based on the following findings of fact:

1. Staff was unable to find a property related hardship that would justify building a carport on the property line. 2. Building a carport so close to the side property line would greatly increase the risk of fire spread and water runoff to the adjacent property and would not provide any space for maintenance of the structure without trespass.