



City of San Antonio

Agenda Memorandum

File Number: 17-6343

Agenda Item Number: 8.

Agenda Date: 11/20/2017

In Control: Board of Adjustment

Case Number: A-17-194
Applicant: Elliot Grochal
Owner: Elliot Grochal
Council District: 1
Location: 812 West Russell Place
Legal: East 49.94 Feet of Lot 6, Block 5, NCB 1877
Description:
Zoning: “MF-33 NCD-2 AHOD” Multi-Family Alta Vista
 Neighborhood Conservation Airport Hazard Overlay District
Case Manager: Logan Sparrow, Principal Planner

Request

A request for 1) a four foot variance from the five foot side setback, as described in Section 35-370, to allow a carport/accessory dwelling unit to be one foot from the side property line and 2) a request for a four foot variance from the five foot rear setback, also described in Section 35-370, to allow a carport/accessory dwelling unit to be one foot from the rear property line.

Executive Summary

The subject property is located at 812 West Russell Place, 128 feet west of North Flores Street. The applicant wishes to demolish an existing carport in the rear yard and is wishing to build a new, two-story carport/accessory dwelling unit in the same footprint. Per BCAD, the carport was built in 1992, and has remained in the same configuration, since. The applicant is seeking permission to build the two story structure one foot from the west and south property lines, but meets the opposite side setback. The proposed accessory dwelling unit meets the required size limitations. Further, there is no expressed interest in deviating from the Alta Vista Neighborhood Conservation District design standards.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“MF-33 NCD-2 AHOD” Multi-Family Alta Vista Neighborhood Conservation Airport Hazard Overlay District	Multi-Family Dwellings

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 NCD-2 AHOD” Residential Single-Family Alta Vista Neighborhood Conservation Airport Hazard Overlay District	Duplex
South	“R-6 NCD-2 AHOD” Residential Single-Family Alta Vista Neighborhood Conservation Airport Hazard Overlay District	Single-Family Dwelling
East	“MF-33 NCD-2 AHOD” Multi-Family Alta Vista Neighborhood Conservation Airport Hazard Overlay District	Duplex
West	“R-6 NCD-2 AHOD” Residential Single-Family Alta Vista Neighborhood Conservation Airport Hazard Overlay District	Duplex

Comprehensive Plan Consistency/Neighborhood Association

The subject property is within the boundaries of the Midtown Neighborhood Plan and currently designated Low Density Residential in the future land use component of the plan. The subject property is within the Alta Vista 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 represented by setbacks to provide separation between incompatible uses and to ensure fair and equal access to air and light. The Unified Development Code allows accessory structures to be as near as three feet to a side or rear property line, without any projecting architectural features. However, the UDC requires more restrictive setbacks for dwelling units, which must be located five feet from side and rear property lines. The proposed living space meets the five foot setback requirement. The only portion encroaching into the required setbacks are the stairs and walkway used to gain access to the unit. Because the living space meets the required five foot setback, staff finds that the request is not contrary to the public interest.

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

The special condition in this case is that the only portion of the structure in violation of the setback is the walkway used to gain access to the dwelling unit, not the dwelling unit, itself. Because the living space meets the setback, staff finds that a literal enforcement of the ordinance would result in 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 the intent of the requirements rather than the strict letter of the law. The intent of the setback is to provide sufficient separation between incompatible uses. As the dwelling unit does meet the setback, and only a twelve foot by five foot walkway and the stairs are located within it, staff finds that the spirit of the ordinance will be observed.

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 “MF-33 NCD-2 AHOD” Multi-Family Alta Vista Neighborhood Conservation 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.

As the proposed structure will be in the same footprint as the current carport, which was built in 1992, per BCAD, it is unlikely that adjacent property will be harmed by the proposed development as adjacent property has not been harmed for the past 25 years.

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 unique circumstance present in the case is that the carport/accessory dwelling unit does meet the side setback; only the walkway to access the unit is in violation. This setback issue is not merely financial in nature.

Alternative to Applicant’s Request

Denial of the variance request would result in the owner having to meet the required five foot side setback.

Staff Recommendation

Staff recommends **APPROVAL of the requested variance in A-17-194**, based on the following findings of fact:

1. Only a small five foot by twelve foot walkway and stairs violates the side setback, and;
2. The new structure is in the same footprint as a structure which has existed in that location for 25 years without issue.