City of San Antonio

Legislation Details (With Text)

File #:	16-2519		
Type:	Staff Briefing - Without Ordinance	**In control:**	Board of Adjustment
On agenda:	4/11/2016		
Title:	A-16-064: A request by Ilder Javier Vasquez for the elimination of the required five foot side yard setback to allow an attached carport to remain on the side property line, located at 422 Dreiss Street. (Council District 2)		
Sponsors:			
Indexes:			
Code sections:			
Attachments:	1. A-16-064 Attachments		

Date	Ver.	Action By	Action	Result

Case Number: A-16-064
Applicant: Ilder Javier Vasquez
Owner: Ilder Javier Vasquez
Council District: 2
Location: 422 Dreiss Street
Legal Description: Lot S 39 FT of W 25.7 FT of 14 & S 39 FT of 15, NCB 1406
Zoning: "RM-4 AHOD" Residential Mixed Airport Hazard Overlay District
Case Manager: Logan Sparrow, Senior Planner

Request

A request for the elimination of the five foot side yard setback, as described in Section 35-310.01, to allow an attached carport to remain on the side property line.

Executive Summary

The subject property is located at 422 Dreiss Street, approximately 158 feet north of Iowa Street. The carport is made of wood, has no gutter, and slopes directly to the neighboring property to the north. This design creates a heightened fire risk and results in excess water runoff onto the neighboring property. Homes in this community were built in the 1920's, before setbacks were required. The neighbor to the north is located very close to this carport, and it is likely that over time this water runoff will result in damages to the neighbor's foundation.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"RM-4 AHOD" Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"RM-4 AHOD" Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling
South	"RM-4 AHOD" Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling
East	"RM-4 AHOD" Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling
West	"RM-4 AHOD" Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the Downtown Neighborhood Plan and currently designated as Residential in the future land use component of the plan. The subject property is within the Denver Heights 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 proposed design, which was built without permits, encroaches into the setback and requires the elimination of the required side setback to remain. The wooden structure causes a fire risk to adjacent property and water runs off of the sloped roof directly onto the neighbor's property. This carport 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.

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 water runoff, over time, is likely to cause damages to the neighboring 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 "RM-4 AHOD" Residential Mixed 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.

Carports are not uncommon within this community. Some carports are also located very near the property line, as many were constructed before our current requirements mandated a five foot side yard setback. The subject property has a lot size that is smaller than many other properties located around it. The small size hampers the

utility of any carport design; however staff does not find that this condition should justify unsafe construction that damages nearby property. This carport does injure the use of adjacent property.

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.

Staff did not find any unique circumstance that warrants the granting of the requested variance. Had the applicant have applied for a permit, staff could have assisted with an alternative design that benefits the applicant and adjacent property owners.

Alternative to Applicant's Request

The applicant may be able to design a carport within the rear yard that adheres to the required setbacks. This alternative design would benefit the neighboring property, too.

Staff Recommendation

Staff recommends **DENIAL of variance request in A-16-064** based on the following findings of fact:

1. There are no special conditions present to warrant the granting of the requested variance. 2. The carport, as designed, poses a fire risk and drains water directly onto adjacent property. Over time, this could cause damages to the neighbor's home.