



City of San Antonio

Legislation Details (With Text)

File #: 17-2714

Type: Zoning Case

In control: Board of Adjustment

On agenda: 4/17/2017

Title: A-17-084: A request by Angelita DeLuna for a four foot variance from the minimum five foot side setback to allow a carport one foot from the side property line, located at 448 E. Mitchell Street. Staff recommends Denial with an Alternate Recommendation. (Council District 3)

Sponsors:

Indexes:

Code sections:

Attachments: 1. Attachments

Date	Ver.	Action By	Action	Result
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Case Number: A-17-084

Applicant: Angelita DeLuna

Owner: Angelita DeLuna

Council District: 3

Location: 448 E. Mitchell

Legal: Lot 5, Block 6, NCB 3013

Description:

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

Case Manager: Margaret Pahl, AICP, Senior Planner

Request

A request for a 4 foot variance from the minimum 5 foot side setback, as described in Section 35-310-1 to allow a carport one foot from the side property line.

Executive Summary

The subject property is located in the Roosevelt Park neighborhood, one block south of Steves Avenue. The applicant had a carport constructed without permits, was cited by Code Enforcement and was then granted a building permit in December of 2016. The site plan submitted for the building permit shows the carport located five feet from the side property line, but according to the variance application, the carport is three feet from the property line. Staff noted that the carport may be located as close as one foot from the property line, but the neighboring house is also very close if not encroaching, making it difficult to evaluate. The carport is constructed entirely of metal, reducing the potential for fire spread. The permit has had no inspections, which for metal carports is the responsibility of the applicant.

The home has had a detached garage in the rear yard since 1987 and then near 2006 added a carport in front of

the garage. The entire side property line is occupied by buildings along the property line, reducing access to air and light for the adjacent property. According to the site plan, the most recent carport is 16 feet in width and 35 feet in length.

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 and designated for Low-Density Residential in the future land use component of the plan. The subject property is also located within the boundaries of the Roosevelt Park 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 adequate setbacks in order to allow air flow and light. The variance required to maintain the carport as constructed is contrary to the public interest. **A variance of 2 feet to allow the carport to be 3 feet from the property line would not be contrary to the public interest, and match the variance requested in the application.**

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

Literal enforcement of the ordinance would require the five foot setback shown on the building permit and required in the zoning district for all new structures. **According to the applicant, the carport can meet a three foot setback, requiring a two foot variance.**

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 intention of the code rather than the exact letter of the law. **The intent of the required setback in this case is to allow air flow, room for maintenance and access to light. The recommended two foot variance to allow a three foot setback, verified by a survey will observe the spirit of the Code.**

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 carport as constructed is very near the adjacent building and built without a gutter. **There are several carports adjacent to the side property lines in this neighborhood, so the essential character may not be altered by the requested variance of two feet to allow a carport with a three foot setback.**

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 that the driveways during this time period were designed to lead to detached garages in the rear yard, rather than for a structure adjacent to the existing home. The applicant has requested approval to allow a carport three feet from the property line, which can be verified by a survey submitted with the required inspections.

Alternative to Applicant’s Request

Denial of the requested variance will require that the carport be reduced in width to meet the setbacks.

Staff Recommendation

Staff recommends **DENIAL of the requested variance in A-17-084 but recommends APPROVAL of a 2 foot variance from the 5 foot side setback to allow the carport 3 feet from the property line** based on the following findings of fact:

1. The proposed setback is consistent with other carports in the neighborhood.