



City of San Antonio

Legislation Details (With Text)

File #: 17-4658
Type: Zoning Case
In control: Board of Adjustment
On agenda: 8/21/2017
Title: A-17-150: A request by Jose Montalvon for 1) a 18.5 foot variance from the 20 foot rear setback to allow a home addition 1.5 feet from the rear property line and 2) a 4 foot variance from the 5 foot side setback requirement, located at 3140 West Martin Street. Staff recommends Denial with Alternate Recommendation. (Council District 5)
Sponsors:
Indexes:
Code sections:
Attachments: 1. BOA17-150 Attachments

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

Case Number: A-17-150
Applicant: Jose Montalvon
Owner: Jose Montalvon
Council District: 5
Location: 3140 West Martin Street
Legal: Lot 15, Block 11, NCB 8961
Description:
Zoning: "MF-33 AHOD" Multi-Family Airport Hazard Overlay District
Case Manager: Oscar Aguilera, Planner

Request

A request for 1) 18.5 foot variance from the 20 foot rear setback, as described in section 35-310, to allow a carport and home addition 1.5 feet from the rear property line and 2) 4 foot variance from the 5 foot side setback requirement, as described in Table 35-310.

Executive Summary

The applicant wishes to attach a 250 square foot addition to store working tools and a 500 square carport to protect his vehicles from inclement weather. The applicant has a small lot (40 feet by 75 feet) and the property is on a corner lot fronting Martin Street and Murray Street. The addition and carport sit about 1.5 feet from the rear property line and 1 foot from the side property line. The applicant obtained permits for 700 square feet attached carport prior to building the addition and carport, however, the applicant was later cited by code enforcement for the setback encroachment since the applicant did not comply with the setback requirements.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"MF-33 AHOD" Multi-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	"MF-33 AHOD" Multi-Family Airport Hazard Overlay District	Vacant lot
East	"MF-33 AHOD" Multi-Family Airport Hazard Overlay District	Single-Family Dwelling
West	"MF-33 AHOD" Multi-Family Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The property is not located within the boundaries of a land use plan and therefore has no designated future land use. The subject property is located within the boundaries of the Prospect Hill Neighborhood Association and 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 a 20 foot rear setback and the 5 foot side setback. The carport and addition were built for added protection for inclement weather, safety and to protect the owner's property. There are similar carports near or adjacent to the property. However, staff feels that the request for the carport to encroach 18.5 feet into the rear setback and to encroach 4 feet into the rear setback would alter the character of the neighborhood and not provide enough room for maintenance. Staff finds that the request will be contrary to the public interest.

A 5 foot side setback and a 3 foot rear setback would allow for room to maintain the structure and will not be contrary to the public interest.

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

As build, the addition does not create a hardship. It could be constructed to include some setback. The property lot is only 3000 square feet and the home was originally built in 1939, which is smaller than many lots in the district.

Literal enforcement of the rear setback would prohibit the carport and addition entirely. An alternative 5

foot side setback and a 3 foot rear setback would allow for room to maintain the structure and the setbacks will not be contrary to the public interest.

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 to prevent overcrowding of lots. The City zoning rear setback is 20 feet and the side setback is 5 feet. These setback requirements represent the ordinance and the proposed carport and addition do not meet this spirit. There are similar carports, adjacent to the property, that do not meet the City zoning setback, however these additions provide at least a 3 foot side setback. Therefore, the carport will be out of character with the surrounding properties.

However, the spirit of the ordinance will be respected with the alternative recommendation, in that the carport does not harm any adjacent properties as the carport respects the established side setbacks. Reducing the carport's length and providing a 5 foot side setback and a 3 foot rear setback, will better observe the spirit.

4. *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 "MF-33 AHOD" Multi-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.*

There are other carports prevalent in the area. However, 18.5 foot variance from the 20 foot rear setback and a variance to encroach 4 feet into the rear setback are unique as there are no structures encroaching 18.5 feet into the rear setback or encroaching 4 feet into the side setback on this street, placing the carport in conflict with the essential character of the subdivision. The addition on the side property line produces water runoff on adjacent properties.

However, providing a 5 foot side setback and a 3 foot rear setback provides better uniformity with surrounding properties because the structure will have a similar setback as the neighborhood, it will be in character with the surrounding properties. This alternative recommendation would have less negative impact on neighboring property and provide room for maintenance without trespass.

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 subdivision lot is too small and the property owner is requesting the variance in order to provide covered parking when there is inclement weather to protect his family and property and an addition to store his tools.

The applicant could increase the rear setback to 3 feet and the side setback to 5 feet and still have room for a carport and addition.

.

Alternative to Applicant's Request

Denial of the variance request would result in the owner having to meet the five foot side setback and the 20 rear setback.

Staff Recommendation

Staff recommends **DENIAL with an alternate recommendation for the rear setback to 3 feet and the side setback to 5 feet in A-17-150:**

1. A 5 foot side setback and a 3 foot rear setback would still allow the owner to achieve the construction of the carport and addition;
2. Carports are very common in the subdivision; however, most carports provide at least a 3 foot rear setback.