



City of San Antonio

Legislation Details (With Text)

File #: 17-5089
Type: Zoning Case
In control: Board of Adjustment
On agenda: 9/18/2017
Title: A-17-158: A request by Ernesto Esquivel for a 2.5 foot variance from the 5 foot side setback to allow a carport 2.5 feet from the side property line, located at 3019 Mars Street. Staff recommends Denial with an Alternate Recommendation. (Council District 5)
Sponsors:
Indexes:
Code sections:
Attachments: 1. A-17-158 Attachments

Date	Ver.	Action By	Action	Result
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Case Number: A-17-158
Applicant: Ernesto Esquivel
Owner: Ernesto Esquivel & Yolanda Esquivel
Council District: 5
Location: 3019 Mars Street
Legal: Lot 30, Block 3, NCB 13474
Description:
Zoning: “R-6 AHOD” Residential Single-Family Airport Hazard Overlay District
Case Manager: Oscar Aguilera, Planner

Request

A request for a 2.5 foot variance from the 5 foot side setback, as described in Section 35-516 (O), to allow a carport 2.5 feet from the side property line.

Executive Summary

The subject property was platted as part of the Kelly Homes, recorded in 1963. The property owner states that he constructed the carport ten (10) years ago in order to facilitate access for his handicap wife and to protect her from the inclement weather. The applicant built the carport 2.5 feet from the side property line.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
South	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
East	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
West	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is within the boundaries of the Kelly / South San PUEBLO Community Plan and currently designated Low Density Residential in the future land use component of the plan. The subject property is not located within the boundaries of a neighborhood association.

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 setback limitations to protect property owners and create a cohesive streetscape.

Since there are carports within the subdivision providing a 3 foot side setback, the proposed carport would not be contrary to the public interest if the applicant provides a 3 foot side setback. A 3 foot side 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.

Literal enforcement of the side setbacks of 5 feet would result in complicating the access and prevent the applicant from providing shelter during inclement weather. An alternative 3 foot side 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 front setback is 10 feet and the side setback is 5 feet. These setback requirements represent the ordinance and the proposed carport and addition do not meet them. There are similar carports, adjacent to the property. However these additions provide at least a 3 feet 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 front setbacks. Reducing the carport's width and providing a 3 foot side setback will better observe the spirit of the ordinance.

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-6 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.

There are other carports prevalent in the area that provides a 3 foot setback. Therefore if the applicant provides the alternative recommendation of a 3 foot side setback, the structure will not impose any immediate threat of water runoff or fire spread on adjacent properties.

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 applicant’s need for more shelter is not a condition created by the owner. Accessibility needs required some alleviation of the side setbacks.

Alternative to Applicant’s Request

Denial would result in the carport needing to meet the 5 foot side setback.

Staff Recommendation

Staff recommends **DENIAL with an alternate recommendation for the side setback to 3 feet in A-17-158:**

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