City of San Antonio

Legislation Details (With Text)

File #:	17-5703
Type:	Zoning Case
In control:	Board of Adjustment
On agenda:	10/16/2017
Title:	A-17-181: A request by Susan Taylor for 1) a four foot and eleven inch variance from the five foot side setback to allow a structure to be one inch from the side property line and 2) a three foot variance from the ten foot front setback to allow a carport to remain seven feet from the front property line, located at 5022 Village Crest Drive. Staff recommends Denial. (Council District 2)
Sponsors:	
Indexes:	
Code sections:	
Attachments:	1. A-17-181 Attachments

Date	Ver.	Action By	Action	Result

Case Number: A-17-181
Applicant: Susan Taylor
Owner: Susan Taylor
Council District: 2
Location: 5022 Village Crest Drive
Legal Description: Lot 21, Block 9, NCB 15776
Zoning: "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager: Oscar Aguilera, Planner

Request

A request for 1) a four foot and eleven inch variance from the five foot side setback, as described in section 35-310.01, to allow a structure to be one inch from the side property line and 2) a three foot variance from the ten foot front setback, as described in section 35-310.01, to allow a carport to remain seven feet from the front property line.

Executive Summary

The property is part of the Park Village Unit Four Subdivision and was recorded on June 30, 1967. The property owner constructed a carport and a side addition without a permit. The addition sits close to the side property line. The carport sits two feet from the side property line and seven feet from the front property line. The owner was cited by Code Enforcement. According to the applicant, the carport is necessary to protect his property during inclement weather since she has no garage.

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 not within the boundaries of any plan and has no future land use designation. 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 the ten foot front and five foot side setbacks. The carport was built for added protection from inclement weather and safety. The side addition sits near the property line and the drainage is directed onto the adjacent property. The applicant's variance request poses a safety issue and alters the character of the neighborhood. Staff noticed that the property owner has several cars and the cars are parked on the side walk. The vehicle blockage creates a safety circulation hazard for pedestrians. Staff finds that this request is contrary to the public interest because it creates unsafe conditions, specifically related to fire separation, drainage, and pedestrian circulation.

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

   There is no special condition that warrants nearly eliminating the side setback and allowing the encroachment of three feet into the front setback. The setback encroachment creates unsafe conditions for the property owner, pedestrians, and the adjacent neighbor. Photographs show the carport is deep enough and wide enough to cover three vehicles. The additional depth does not fully cover cars parked back to back.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

   The spirit of the ordinance will not be observed in that the spirit intends to provide for safe development

throughout the community. Allowing the side addition to be on the side property line and the carport to be two feet away from the side property line, limits room for maintenance without trespass, and creates fire hazards for the neighbors as well as drainage issues. In addition, the front setback encroachment encourages the property owner to park multiple cars on the driveway which blocks the sidewalk, causing a pedestrian circulation hazard. The carport could meet the required side and front setback and still provide covered space for multiple cars.

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-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.*

   The requested variance could harm the adjacent property because it creates unsafe fire protection distances, the drainage is directed onto the adjacent property and the property owner blocks the sidewalk creating a pedestrian circulation hazard.

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 was caused entirely by the owner of the property. Had the owner have applied for a building permit, the setback information could have been communicated well in advance of the project. It is likely that the request is largely financial in nature because the project has already been completed.

Alternative to Applicant's Request

Denial of the variance request would result in the removal of the structures.

Staff Recommendation

Staff recommends **DENIAL of the requested variance as described in A-17-181** based on the following findings of fact:

1. There is no unique circumstance or special condition that warrants the granting of the variance requirement;
2. The request creates unsafe fire protection distances, drainage issues, a pedestrian circulation hazard, and hinders the ability to maintain the structures without trespass.