



City of San Antonio

Legislation Details (With Text)

File #: 17-6035

Type: Zoning Case

In control: Board of Adjustment

On agenda: 11/6/2017

Title: A-17-192: A request by Antonio Martinez for 1) a two foot variance from the ten foot front setback to allow a carport to be eight feet from the front property line and 2) a 4 foot and eleven inch variance from the five foot side setback to allow a carport to be one inch from the side property line, located at 5438 Joslyn Lane. Staff recommends Denial with an Alternate Recommendation. (Council District 6)

Sponsors:

Indexes:

Code sections:

Attachments: 1. A-17-192 Attachments

| Date | Ver. | Action By | Action | Result |
|------|------|-----------|--------|--------|
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Case Number: A-17-192

Applicant: Antonio A. Martinez

Owner: Antonio A. and Maria D. Martinez

Council District: 6

Location: 5438 Joslyn Lane

Legal: Lot 18, Block 5, NCB 13956

Description:

Zoning: "R-6 AHOD" Residential Single-Family Airport Hazard
Overlay District

Case Manager: Oscar Aguilera, Planner

Request

A request for 1) a two foot variance from the ten foot front setback, as described in Table 35- 310.01, to allow a carport to be eight feet from the front property line and 2) a four foot and eleven inch variance from the 5 foot side setback, as described in Table 35-310.0 I, to allow a carport to be one inch from the side property line.

Executive Summary

The applicant is seeking a variance from both the front and side setbacks to allow for the carport to remain in its current location. The owner states that when he bought the property twenty years ago, the carport already existed. The applicant advised that due to the deterioration of the carport, he reinforced the existing column and replaced the roof. The applicant did the repairs without a permit. During the renovation, the size of the carport was expanded into the front setback.

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 property is within the boundaries of the West Sector Plan and designated for Suburban Tier in the future land use component of the plan. The subject property is not located within the boundaries of a registered 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 adequate setbacks to preserve an open streetscape setback and to allow maintenance of the front yard without trespass. As the proposed carport satisfies these principles, the requested variances are not contrary to public interest.

The carport encroaches into to the side set back by four feet and eleven inches, leaving only one inch of room for maintenance. This setback is not adequate and is contrary to the public interest. Staff recommends a three foot variance from the side setback requirements, which will give the applicant two feet of space for maintenance. Further, the applicant will be required to fire rate the structure.

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

Literal enforcement of the ordinance in respect to the front setback requirements would result in an unnecessary hardship as the two foot encroachment is minimal and hard to notice. Denial of the requests would result a loss of parking area on site, resulting in the owner not having a carport protecting his property.

The enforcement of the side setback would not result in a hardship as if there will be no room for maintenance. Staff recommends the owner remove two feet of the carport in order to have room for maintenance.

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 intent of the code rather than the exact letter of the law. The intent of the Code is to provide a minimum setback to establish safe and uniform development for the City of San Antonio. As the request for the front setback requirement will meet Clear Vision Requirements, the spirit of the ordinance is upheld.

The variance to allow a four foot and eleven inch side setback would not result in substantial justice as there will be no room for maintenance. Staff recommends the owner remove two feet of the carport in order for the owner to have room for maintenance. This alternate recommendation will still allow the owner to be able to park a car under the carport.

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.

The request to reduce the front setback has no negative impact on the neighboring properties as it does not interfere with Clear Vision from the neighboring driveway. There is green space on the property to collect and prevent excessive runoff in the street.

The request to reduce the side setback would negatively impact the adjacent property as there is little room for maintenance without trespass. Staff recommends the owner remove two feet of the carport in order for the owner to have room for maintenance and to provide some separation and for fire safety.

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 unique circumstance is that the property owner purchased the property twenty years ago with the existing carport. The carport structured deteriorated and the applicant repaired the non-conforming structure in order to provide coverage for his property and family during inclement weather. During that time the owner expanded the carport into the front setback.

The carport encroaches into to the side setback by four feet and eleven inches, leaving only one inch of room for maintenance on the subject property, which is not adequate, and is contrary to the public interest. Staff recommends a three foot variance from the side setback requirement which will give the applicant two feet of room for maintenance.

Alternative to Applicant’s Request

Denial would result in the carport needing to meet the required five foot side setback and the required ten foot front setback.

Staff Recommendation

Staff recommends **APPROVAL of the requested variance for a two foot variance from the ten for front setback in A-17-193** based on the following findings of fact:

1. The front setback encroachment is minimal and difficult to notice; and

2. Carports are common in the district; and
3. The carport will not interfere with Clear Vision.

Staff recommends **DENIAL of the requested 4 foot 11 inch variance with an alternate recommendation for a three foot variance from the five foot setback to allow a carport to be two feet from the side property line** based on the following findings of fact:

1. The approval of a three foot variance will allow for maintenance; and
2. Carports are common in the district; and
3. The carport will not interfere with Clear Vision.