



City of San Antonio

Legislation Details (With Text)

File #: 19-6942
Type: Zoning Case
In control: Board of Adjustment
On agenda: 9/16/2019
Title: BOA-19-10300103: A request by Jose Neri for a 4' variance from the 5' side setback to allow a carport to be 1' from the front property line, located at 355 Kendalia Avenue. Staff recommends Denial with an Alternate Recommendation. (Councill District 3) (Mirko Maravi, Planner (210) 207-0107, mirko.maravi@sanantonio.gov, Development Services Department)
Sponsors:
Indexes:
Code sections:
Attachments: 1. BOA-19-10300103 Attachments

Date	Ver.	Action By	Action	Result
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Case Number: BOA-19-10300103
Applicant: Jose Neri
Owner: Jose Neri
Council District: 3
Location: 355 Kendalia Avenue
Legal: Lot west 50 feet of 13, Block 6, NCB 7836
Description:
Zoning: "R-6 MLOD-2 MLR-2 AHOD" Residential Single-Family
Lackland Military Lighting Overlay Military Lighting
Region 2 Airport Hazardous Overlay District
Case Manager: Mirko Maravi, Planner

Request

A request for a 4' variance from the 5' side setback, as described in Section 35-310.01, to allow a carport to be 1' from the front property line.

Executive Summary

The applicant is requesting to build a carport built within the side setback. The general character of the neighborhood consists of single-family residences, with single vehicle driveways and occasional carports.

Code Enforcement History

Hansen Case # 170751. Code investigation for building without permits. Stop work order placed on July 9, 2019.

Permit History

None.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-6 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazardous Overlay District	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazardous Overlay District	Single-Family Dwelling
South	“R-6 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazardous Overlay District	Single-Family Dwelling
East	“R-6 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazardous Overlay District	Single-Family Dwelling
West	“R-6 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazardous Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The property is located within the boundaries of the South Central San Antonio Community Plan. The subject property is not within any neighborhood association.

Street Classification

Kendalia Avenue is classified as a Local.

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 served by setbacks, which help to provide consistent development within the City of San Antonio. The applicant is seeking a variance to allow the existing attached carport to remain 1 foot from the side property line. Allowing the carport to be 1' from the side property line interferes with the character of the neighborhood. Staff finds that the attached carport, as proposed, is contrary to the public interest.

Staff finds that a 3' side setback allows the carport to be easily fire rated, and is safe for the property owner and neighbors.

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

Staff is unable to establish any special condition that warrants reducing the side setback to one foot.

Staff finds that a 3' side setback is reasonable and would allow for property 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 the intent of the Code, rather than the strict letter of the law. In this case, the intent is to provide enough of a setback to allow for long-term maintenance without trespass. The near elimination of the side setback requirement does not provide such clearance and does not observe the spirit of the ordinance.

Staff finds that a 3' side setback is safe for the property owner and neighbors allowing for property maintenance.

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 by the zoning 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 placement of an attached carport twelve inches from the side property line is contrary to the essential character of the district.

Staff finds that a 3' side setback would not substantially injure adjacent property.

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.*

Staff is unable to determine any unique circumstance existing on the site that warrants the near elimination of the side setback requirement.

Staff finds that a 3' side setback allows the carport to be easily fire rated, and is safe for the property owner and neighbors.

Alternative to Applicant's Request

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

Staff Recommendation

Staff recommends **DENIAL with an Alternate Recommendation of a 2' variance from the 5' side setback to allow an attached carport to be 3' from the side property line** in **BOA-19-10300103**, based on the following findings of fact:

1. A 3' side setback allows the carport to be easily fire rated, and is safe for the property owner and neighbors, and;
2. A 3' side setback provides reasonable space to maintain the structure.