



City of San Antonio

Legislation Details (With Text)

File #: 20-1087

Type: Staff Briefing - Without Ordinance

In control: Board of Adjustment

On agenda: 1/13/2020

Title: BOA-19-10300158: A request by Miguel Morones for a 4'11" variance from the 5' side setback requirement to allow an attached carport to be 1" from the side east property line, located at 578 Lively Drive. Staff recommends Denial with an Alternate Recommendation. (Council District 1) (Rachel Smith, Planner (210) 207- 5407, rachel.smith@sanantonio.gov, Development Services Department)

Sponsors:

Indexes:

Code sections:

Attachments: 1. BOA-19-10300158 Attachments

Date	Ver.	Action By	Action	Result
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Case Number: BOA-19-10300158

Applicant: Miguel Morones

Owner: Miguel Morones

Council District: 1

Location: 578 Lively Dr

Legal: Lot 45, Block 55, NCB 10692

Description:

Zoning: "R-4 AHOD" Residential Single Family Airport Hazard Overlay District

Case Manager: Rachel Smith, Planner

Request

The original request was for a 4'11" from the 5' side setback requirement to allow for an attached carport to be 1" from the side property line. However, due to property line corrections, the request has been modified by the applicant to a 4'9" variance from the 5' side setback requirement, described in Section 35-310.01, to allow for an attached carport to be 3" from the side property line.

Executive Summary

The subject property is on the Southern side of Lively Drive near Dewhurst Road. The property is a single family home with an attached carport on the front and a detached garage and storage shed at the rear of the property. There is a 15' wide alley to the rear which appears to be a service alley. The property owner has an existing carport attached to the front right side of their dwelling and wishes to expand covered parking for their vehicles by adding another attached carport. The public right of way extends 10.5' from the edge of the street.

The property owner began the permitting process for a new carport where he was notified of the need for a variance due to the side setback requirement for an attached carport. Upon visit to the site, staff noted that the carport posts were already in place and attached to the home and fence. The distance between posts is 9'7". The property owner states the contractor started work on the carport after the variance application was submitted and received a stop work order as a result.

Code Enforcement History

There is no code enforcement history on file for this property.

Permit History

There are no permits related to the carport on file.

Zoning History

The subject property was annexed into the City of San Antonio by Ordinance 18115 dated September 25, 1952 as "B" Apartment District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 3, 2001, the property zoned "B" Apartment district was converted to "R-4" Residential Single Family district.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-4 AHOD" Residential Single Family Airport Hazard Overlay District	Single family residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-4 AHOD" Residential Single Family Airport Hazard Overlay District	Single family residence
South	"R-4 AHOD" Residential Single Family Airport Hazard Overlay District	Single family residence
East	"R-4 AHOD" Residential Single Family Airport Hazard Overlay District	Single family residence
West	"R-4 AHOD" Residential Single Family Airport Hazard Overlay District	Single family residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Greater Dellview Area Plan and designated as "Low Density Residential" in the future land use component of the plan. The subject property is in the boundaries of the Dellview Neighborhood Association and as such, they were notified of the case.

Street Classification

Lively Drive is classified as a local street.

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 carport to be 3” from the side property line. The requested setback fails to provide adequate fire separation distance, provide no room for maintenance, and may drain water onto adjacent property. Staff finds that the carport, as proposed, is contrary to the public interest.

Staff supports reducing the side setbacks to 1’, which would provide adequate room for maintenance and would provide better separation for fire spread and rainwater runoff.

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 front and side setback.

The applicant could modify the proposed carport to have a 1’ side setback.

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. The intent of the code is to provide for consistent development and to establish room for maintenance, and to reduce the threat of fire spread. The requests to reduce the front and side setbacks do not observe the intent of the code.

Staff supports a modified setback reduction to 1’ side setback, as it addresses these concerns.

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.*

No uses other than those allowed within the district will be allowed with this variance.

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.*

While other structures in the neighborhood enjoy reduced setbacks, staff cannot support a 3” side setback. It poses an immediate risk to adjacent property and leaves no room for maintenance of the structure.

The carport could be modified to allow the carport structure at 1’ side setback.

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 a unique circumstances existing on the site.

The carport should be designed in a manner that respects the intent of the code.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the lot size requirements of the UDC section 310.01 or to rezone the property to a district that allows that lot size.

Staff Recommendation

Staff recommends **Denial with an Alternate Recommendation** of a 4' variance from the side setback requirement to allow a carport to be 1' from the side property line in **BOA-19-10300158** based on the following findings of fact:

1. The requested variance does not provide adequate space to prevent fire spread, maintain the structure, or prevent water runoff onto adjacent property.
2. The recommended 1' distance still provides adequate space to allow the needed width and cover.