City of San Antonio

Legislation Details (With Text)

File #:	20-6681
Type:	Staff Briefing - Without Ordinance
In control:	Board of Adjustment
On agenda:	11/16/2020
Title:	BOA-20-10300106: A request by Juan Sanchez for a variance from the Jefferson Neighborhood Conservation District design standards to allow 1) the carport material to be metal, 2) to allow the carport to be within the 10' structure separation, and 3) a 3'7" variance from the minimum 5' side setback to allow an attached carport to be 1' 5" away from the side property line, and 4) the carport roof to be flat, located at 2635 West Mulberry Avenue. Staff recommends Denial. (Council District 7) (Azadeh Sagheb, Planner (210) 207-5407, Azadeh.Sagheb@sanantonio.gov, Development Services Department)
Sponsors:	
Indexes:	
Code sections:	
Attachments:	1. Attachments

Date	Ver.	Action By	Action	Result

Case Number:	BOA-20-10300106
Applicant:	Juan Sanchez
Owner:	Juan Sanchez
Council District:	7
Location:	2635 West Mulberry Avenue
Legal Description:	Lot 28 East 8 Feet of Lot 27 & West 12 Feet of Lot 29, NCB 9182
Zoning:	"R-6 NCD-7 AHOD" Residential Single-Family Jefferson Neighborhood Conservation Airport Hazard Overlay District
Case Manager:	Azadeh Sagheb, Planner

Request

The applicant is requesting a variance from the Jefferson Neighborhood Conservation District design standards to allow 1) the carport material to be metal, 2) to allow the carport to be within the 10' structure separation requirement, and 3) a 3'7" variance from the minimum 5' side setback to allow an attached carport to be 1' 5" away from the side property line, and 4) the carport roof to be flat.

Executive Summary

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The subject property is mid-block located between Morning Glory and Saint Cloud street facing the Seeling Channel, where the multi-phased floodplain improvements project is in progress. The applicant is requesting a few variances from the Jefferson Neighborhood Conservation District (NCD-7) design standards for an attached carport. The applicant built a metal carport 1'5" away from the eastern property line without obtaining a permit. The attached carport is required to be made of the same building material maintaining the same scale and roofline as the main structure to abide by NCD-7 requirements.

During the site visit, staff recognized wood being the primary building material for a pitched roof dwelling unit while the subject carport is a flat roof, metal structure. The neighbor's garage has been built on the property line, and its overhang is within this property. The proximity of the carport and adjacent garage puts both neighbors within the 10' structure separation requirement and leaves less than a one-foot distance in between, violating the NCD-7 standards.

Code Enforcement History
There is a pending code enforcement record on file, dated August 14, 2020 for the carport built without permits.

Permit History
No permits have been processed for this property.

Zoning History
The subject property was annexed into the City of San Antonio by Ordinance 1940, dated May 31, 1940 and was originally zoned "R-1" Single Family Residence District. Upon adoption of the 2001 Unified Development Code, the property zoned "R-1" Single Family Residence District converted to its current "R-6" Residential Single-Family District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-6 NCD-7 AHOD" Residential Single-Family Jefferson Neighborhood Conservation Airport Hazard	Residential

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-6 NCD-7 AHOD" Residential Single-Family Jefferson Neighborhood Conservation Airport Hazard	Residential
South	"R-6 NCD-7 AHOD" Residential Single-Family Jefferson Neighborhood Conservation Airport Hazard	Residential
East	"R-6 NCD-7 AHOD" Residential Single-Family Jefferson Neighborhood Conservation Airport Hazard	Residential

West	"R-6 NCD-7 AHOD" Residential Single-Family Jefferson Neighborhood Conservation Airport Hazard	Residential

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Near Northwest Community Plan and designated as "Urban Low Density Residential" in the future land use component of the plan. The subject property is within the boundary of the Jefferson Neighborhood Association and as such, they were notified of the case.

Street Classification

West Mulberry Avenue is classified as local streets.

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 variances are contrary to the public interest. The carport is designed such that rainwater runoff is a concern for both the applicant's property and adjacent property. Staff finds that the carport could present a negative impact on the adjacent property.

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

Staff cannot find any special conditions that, if enforced, would result in an unnecessary hardship. If a permit was sought, staff could have advised on other approaches to achieve a similar result.

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 design regulations of the Neighborhood Conservation District is to preserve appropriate design consistent with the surrounding community, which has been distracted by the carport built on this property.

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.

The location of the constructed carport seems likely to alter the essential character of the district and it is not in alignment with the design regulations put in place of the Jefferson Neighborhood Conservation District (NCD-7).

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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 does not find any unique circumstances that warrant the granting of this request. The constructed carport is overwhelming and inconsistent with the NCD-7 design regulations.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Jefferson Neighborhood Conservation District design regulations of the UDC Section 35-335.

Staff Recommendation

Staff recommends **DENIAL** of the special exception in **BOA-20-10300106** based on the following findings of fact:

1. The development is not consistent with the design standards of the Jefferson Neighborhood Conservation District, and;
2. The requested variances create conflict in the neighborhood caused by incompatible development and distract the uniformity and cohesion of community, and;
3. There is a lack of adequate space to prevent stormwater runoff, maintenance of the property, and maintenance of the structure without trespass.

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