



City of San Antonio

Legislation Details (With Text)

File #: 21-5158

Type: Staff Briefing - Without Ordinance

In control: Board of Adjustment

On agenda: 8/16/2021

Title: BOA-21-10300088: A request by Rene LaFuentes for 1) a 4' 6" variance from the minimum 5' side setback to allow an attached carport to be 6" away from the side property line, 2) a 3' variance from the minimum 10' front setback to allow an attached carport to be 7' away from the front property line, and 3) a special exception to allow a predominately open front yard fence to be 6' 8" tall, located at 1710 West Olmos Drive. Staff recommends Denial with an Alternate Recommendation. (Council District 1) (Kayla Leal, Senior Planner (210) 207-0197, kayla.leal@sanantonio.gov, Development Services Department)

Sponsors:

Indexes:

Code sections:

Attachments: 1. Attachments

Date	Ver.	Action By	Action	Result
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Case Number:	BOA-21-10300088
Applicant:	Rene Lafuente
Owner:	Juan M Nieto
Council District:	1
Location:	1710 West Olmos Drive
Legal Description:	Lot 8, Block 49, NCB 8831
Zoning:	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager:	Kayla Leal, Senior Planner

Request

A request for 1) a 4' 6" variance from the minimum 5' side setback, as described in Section 35-510, to allow an attached carport to be 6" away from the side property line, 2) a 3' variance from the minimum 10' front setback, as described in Section 35-510, to allow an attached carport to be 7' away from the front property line, and 3) a special exception to allow a predominately open front yard fence, as described in Section 35-514, to be 6' 8" tall.

Executive Summary

The subject property is located near the West Olmos Drive and Buckeye Street intersection. The applicant is

proposing a carport to be built and is needing to request variances to the front and side setback due to the limited space on the property. Other carports encroaching into the side setback were observed in the surrounding area, but not many were observed past the front façade of the home. Upon the site visit, staff noted the height of the front yard predominately open fence to be 6' 8" which exceeds the maximum fence height for a front yard fence.

Code Enforcement History

There are no relevant Code Enforcement violations pending.

Permit History

A Permit was issued on October 30, 2017 to expand the driveway curb cut.

Zoning History

The subject property was located within the Original City Limits of San Antonio and was zoned "B" Residence District. Upon adoption of the 2001 Unified Development Code, the zoning converted from "B" to the current "R-4" Residential Single-Family District, established by Ordinance 93881, dated May 3, 2001.

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 Near Northwest Community Plan and is designated "Urban Low Density Residential" in the future land use component of the plan. The subject property is located within the Los Angeles Heights Neighborhood Association and were notified of the case.

Street Classification

West Olmos Drive is classified as a local road.

Criteria for Review - Variances

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. The applicant is requesting a variance to the side setback for an attached carport 12' 6". The carport is being proposed to be 6" away from the side property line.

Staff is recommending an alternate recommendation, so the carport will be 3' away from the property line. The front and side setback variance do not appear to be contrary to the public interest.

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

A literal enforcement of the ordinance would result in the applicant in adjusting the carport to be 5' from the side property line. This would result in the width of the carport reducing to 8' which would result in an unnecessary hardship as it would not have much room to fit a vehicle in the driveway.

By constructing the carport 3' from the side property line, the carport width would be adjusted to 10' which allows the space for a vehicle. The length of the carport is 15' with the front setback variance.

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. A 6" side setback will not observe the spirit of the ordinance, as it may pose a fire hazard and would be required to be fire rated.

The recommended variance to allow a 3' side setback variance will maintain the spirit of the ordinance to create more space between the carport and the adjacent structure.

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.*

Staff finds the request for a 4' 6" variance is proposed too close to the property line and is likely to affect the adjacent property.

If the alternate recommendation is granted, the structure and attached carport will maintain three feet of space which is not likely to alter the essential character of the district. There are a few carports in the surrounding area with similar setbacks.

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 finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property such as the small amount of available space.

Criteria for Review - Fence Height

According to Section 35-482(h) of the UDC, in order for a special exception to be granted, the Board of Adjustment must find that the request meets each of the five following conditions:

- A. *The special exception will be in harmony with the spirit and purpose of the chapter.*

The UDC states the Board of Adjustment can grant a special exception for a fence height modification. The additional fence height was observed upon the site visit and, if granted, staff finds the request would be in harmony with the spirit and purpose of the ordinance.

- B. *The public welfare and convenience will be substantially served.*

In this case, these criteria are represented by fence heights to protect residential property owners while still promoting a sense of community. A 6' 8" predominately open fence along the front yard on the west side does not pose any adverse effects to the public welfare.

- C. *The neighboring property will not be substantially injured by such proposed use.*

The fence will create enhanced security and privacy for the subject property and is unlikely to substantially injure any neighboring properties.

- D. *The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought.*

The additional height for the section of front yard fence will not alter the essential character of the district. There are similar wrought iron front yard fences in the surrounding area.

- E. *The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district.*

The current zoning permits the current use of a single-family home. The requested special exception will not weaken the general purpose of the district.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Lot and Building Dimensions of the UDC Section 35-310.01 and the Fence Height Regulations of Section 35-514.

Staff Recommendation - Side Setback Variance

Staff recommends Denial **with an Alternate Recommendation of a 2' variance to the minimum side setback of 5' to allow the carport to be 3' away from the side property line** in **BOA-21-10300088** based on the following findings of fact:

1. The carport will be 3' away from the side property line; and
2. The carport is not out of character with the neighborhood.
3. The adjusted width of the carport will be 10'.

Staff Recommendation - Front Setback Variance

Staff recommends **Approval** in **BOA-21-10300088** based on the following findings of fact:

1. The carport will be 7' away from the front property line; and
2. The carport is not out of character with the neighborhood.

Staff Recommendation - Front Yard Fence Special Exception

1. The front yard fence is predominately open; and
2. The wrought iron fence is not out of character with the neighborhood; and
3. The gate is on a rolling track.