



City of San Antonio

Agenda Memorandum

File Number:16-1613

Agenda Item Number: 9.

Agenda Date: 2/8/2016

In Control: Board of Adjustment

Case Number: A-16-041
Applicant: Francisco Patlan
Owner: Francisco Patlan
Council District: 3
Location: 338 Pennystone Avenue
Legal Description: Lot 9, Block 29, NCB 9639
Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager: Margaret Pahl, AICP Senior Planner

Request

A request for 1) a 5 foot variance from the minimum 5 foot side setback to allow a carport to be on the side property line; & 2) a 10 foot variance from the minimum 10 foot front setback as described in Section 35-310.01, to allow a carport to be on the front property line.

Executive Summary

The applicant currently resides in the Highland Hills Subdivision, a subdivision that was recorded in 1949. The lot includes approximately 7,250 square feet, with a home built in 1949. The applicant purchased the home in 1998 and widened the driveway in front of the home in 2008. There is an older metal flat-roof carport to the side and behind the front façade. According to aerial photography, the property owner constructed a large carport in 2014 without permits and was recently cited by code. The carport is built within both the 5 foot side yard setback and the 10 foot front yard setback, requiring both variances.

Subject Property Zoning/Land Use

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

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

South	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
East	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
West	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the Highland Hills Neighborhood Plan and currently designated as Low-Density Residential in the future land use component of the plan. The subject property is located within the Highland Hills Neighborhood Association. As such, the neighborhood was notified and asked to comment.

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 setback limitations to protect property owners and allow for long-term maintenance. Staff finds that the request for a carport encroaching into both the front and side setbacks is contrary to the public interest.

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

The property has no obvious special conditions or circumstance to warrant complete elimination of setbacks. The lot is large by City standards, wider than 50 feet. Though there are no additional platted setbacks, the current carport is built very close, and potentially right up to, to the front property line, with an eave that seems to drip over the side property line.

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 requirement. Granting the requested variance will not result in substantial justice as no special condition has been identified to justify eliminating setbacks respected by other properties similar in size and width.

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-4 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 requested side setback variance could injure the neighboring property owner; fire hazard and stormwater runoff both threaten the integrity of the neighbor's wooden fence. The carport is also out of place along the streetscape, being the only structure so close to the street. The street currently has no sidewalk but if a public improvement project was initiated and sidewalk was added, the carport would be very imposing on a pedestrian.

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 was unable to find a unique circumstance to warrant elimination of both front and side setbacks. Setbacks are a general condition required of all properties throughout the City.

Alternative to Applicant's Request

The applicant could relocate the structure to the rear yard where there is ample room to meet minimum setbacks.

Staff Recommendation

Staff recommends **DENIAL of variance request in A-16-041** based on the following findings of fact:

1. Staff was unable to find a special or unique condition which would require the applicant to encroach into the front and side setbacks.