



City of San Antonio

Agenda Memorandum

File Number:16-6008

Agenda Item Number: 8.

Agenda Date: 12/5/2016

In Control: Board of Adjustment

Case Number: A-17-016
Applicant: Jario & Sonia Castillo
Owner: Jario & Sonia Castillo
Council District: 9
Location: 102 Enchanted Drive
Legal: Lot 15, Block 9, NCB 13205
Description:
Zoning: "R-5 AHOD" Residential Single-Family Airport Hazard
Overlay District
Case Manager: Margaret Pahl, AICP, Senior Planner

Request

A request for a 11.5 foot variance from the 15 foot platted side setback, as described in UDC 35-516, to allow a carport 3.5 feet from the side property line.

Executive Summary

The subject property includes a 9,600 square foot lot in the Harmony Hills neighborhood. The lot is located on a corner along a section of San Pedro that functions as a freeway access road, just north of Loop 410. Because of this unique location, the lot includes a platted 15 foot side setback. The applicant constructed a metal carport, under 300 square feet which did not require a building permit, but encroaches into this platted set back. They were cited by Code Enforcement for construction without a permit.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Home

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Home

South	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Home
East	Unzoned Right of Way	US Hwy 281
West	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Home

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the San Antonio International Airport Vicinity Plan and currently designated as Low-Density Residential in the future land use component of the plan. The subject property is located within the boundaries of the Greater Harmony Hills Neighborhood Association. As such, they were notified and asked to comment.

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 public interest is represented by the minimum setbacks. The all metal carport is more than three feet from the property lines, and therefore not contrary to public interest.

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

Literal enforcement of the ordinance will force the destruction of the recently constructed metal carport, an unnecessary hardship, as the carport was small enough that a permit was not required.

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 of the wider platted side setback was likely to prevent dwelling units from proximity to the highway, not a carport.

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 variances will not authorize the operation of a use on the subject property other than those specifically permitted in the "R-5 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 carport, as constructed, is hidden from view of the public right of way. The applicant built the carport more than three feet away from each property line, typically the minimum distance required without a platted 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.*

The unique circumstance is a wide platted setback, which was not created by the applicant and is not financial in nature.

Alternative to Applicant's Request

Without the requested variance, the owner will be required to remove the carport.

Staff Recommendation

Staff recommends **APPROVAL of the requested variance, detailed in A-17-016** based on the following findings of fact:

1. The applicant was told that a building permit is not required; and
2. The setback was likely meant for residential structures and protection from the highway, not generally applicable to accessory structures.