



City of San Antonio

Agenda Memorandum

File Number:17-3197

Agenda Item Number: 7.

Agenda Date: 5/15/2017

In Control: Board of Adjustment

Case Number: A-17-106
Applicant: Jorge Rivera and Daniela Milan
Owner: Jorge Rivera and Daniela Milan
Council District: 4
Location: 7406 Bronco Lane
Legal: Lot 33, Block 12, NCB 15541
Description:
Zoning: "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager: Margaret Pahl, AICP, Senior Planner

Request

A request for a 1) a 14 foot variance from the 30 foot platted front setback, as described in Section 35-516 (o) and 2) a 3 foot variance from the 5 foot side setback, as described in Table 35-310, to allow a carport 16 feet from the front property line and 2 feet from the side.

Executive Summary

The subject property is located in the Lackland Terrace Subdivision just north of US Highway 90. This subdivision of several hundred lots was recorded in the 1960's and included a wide 30 foot platted front setback. A property owner, either the current one or a previous one, converted the garage into living space. Very recently, a carport was built without permits and encroaches into the platted front setback. In addition, the posts and eave-overhang encroach slightly into the minimum 5 foot side setback. Two variances are required to permit the carport as constructed. Nevertheless, the current carport exceeds the minimum front zoning setback of ten feet and has enough distance from the side property line to allow maintenance without trespass and not threaten fire spread. Some fire rated construction methods may be required during permitting, depending on the exact location.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
South	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
East	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
West	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the West Sector Plan and designated for General Urban Tier uses in the future land use component of the plan. The subject property is also located within the boundaries of the Lackland Terrace 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 adequate setbacks to preserve an open front setback and provide a side setback to allow maintenance. Therefore, these requested variances are 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 would require that the property owner amend the plat to remove the building setback line, an unnecessary hardship. The requested variance to the side setback is minor in nature.

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 Code is to provide a minimum front setback to create an open streetscape, provided by the current 16 foot front setback, observing the spirit of the Code.**

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.*

The variance will not authorize the operation of a use other than those uses specifically authorized in the "R-6 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 applicant is requesting a variance to allow the completion of a carport, built without permits. If the requested variances are approved, the carport will not alter the character of the district, which has seen the addition of three or four carports on this block in the last two years.

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 plight of the owner is not financial and was created over 50 years ago when large open front yards were highly valued. More recently, weather abnormalities have increased the desire to have protection for vehicles, not the fault of the owner.

Alternative to Applicant's Request

Denial of the requested variance would result in the applicant having to remove the carport or the platted setback.

Staff Recommendation

Staff recommends **APPROVAL of the requested variance in A-17-106** based on the following findings of fact:

1. The large platted front setback was created over 50 years ago; and
2. Weather abnormalities have created a need for vehicle coverage.