



City of San Antonio

Agenda Memorandum

File Number:17-6273

Agenda Item Number: 10.

Agenda Date: 11/20/2017

In Control: Board of Adjustment

Case Number: A-17-199
Applicant: Lisa Carrasco
Owner: Lisa Carrasco
Council District: 3
Location: 3619 Devon Street
Legal: Lot 34, Block 4, NCB 12849
Description:
Zoning: "R-4 AHOD" Single-Family Residential Airport Hazard
Overlay District
Case Manager: Oscar Aguilera, Planner

Request

A request for 1) a three foot variance from the ten foot front setback requirement, as described in Section 35-310.01, to allow a carport to be seven feet from the front property line and 2) a request for a four foot and eleven inch variance from the required five foot side setback, also described in Section 35-310.01, to allow a carport to be one inch from the side property line.

Executive Summary

The applicant was cited by Code Enforcement for construction of the carport without building permits. Currently the carport sits seven feet from the front property line and one inch from the side property line. The carport is made of metal and the owner has provided gutters to help prevent water drainage onto neighboring properties. The applicant is seeking a variance to allow the carport to remain as constructed.

Subject Property Zoning/Land Use

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

Surrounding Zoning/Land Use

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

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the Highlands Community Plan and designated as Low Density Residential in the future land use component of the plan. The subject property is located within the boundaries of the Highland Hills Neighborhood Association. The Neighborhood Association was 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 minimum setbacks that help to establish uniform and safe development within the City of San Antonio. Allowing the carport to remain one inch from the property line leaves no room for long term maintenance. Staff recommends approval of a two foot variance to allow a three foot setback.

Staff recommends approval of the front yard variance as the request is unlikely to harm adjacent property.

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

A literal enforcement of the ordinance would not result in unnecessary hardship for the applicant. Staff feels there is ample of space to park several vehicles even if the applicant complies with the alternative setback requirements.

Staff finds that the front yard reduction is minimal in nature, and that requiring the owner remove three feet of the carport would result in an unnecessary hardship as it causes no harm.

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 setback is to allow room for maintenance and to provide safe separation between structures. The current construction on the side property line does not observe the spirit of the code and should be modified. A three foot side setback would satisfy this intent.

The spirit of the ordinance is observed in that the carport is seven feet from the front property line. The applicant is allowed five feet overhang encroachment for the front setbacks and the applicant encroaches less what it is allowed by code. The carport does not pose a fire risk, and will not drain water onto adjacent properties.

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” Single-Family Residential 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.

It is possible that adjacent property could be harmed by the near-elimination of the side setback. There would be no room for maintenance, and there is the potential that rainwater could drain onto adjacent yards. Staff would be more comfortable with a three foot side yard setback.

Adjacent properties are unlikely to be negatively affected by the requested front yard setback reduction in that the requested setback reduction is minimal.

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 is unable to establish any unique circumstance that merits the near elimination of the side yard setback. A three foot side setback would provide room for maintenance, and would provide a safe separation distance between structures.

The front setback reduction is merited in that the applicant could encroach the same distance with an eave overhang extension, by-right.

Alternative to Applicant’s Request

The applicant would have to comply with the full front and side setbacks.

Staff Recommendation

Staff recommends **Denial with an alternative recommendation for a two foot variance to allow the carport three foot from the side property line for A-17-199** based on the following findings of fact:

1. The carport will not present a fire risk to adjacent properties, nor will it drain water onto adjacent properties.
2. The three foot distance will provide adequate room for maintenance.

Staff recommends **Approval of a three foot variance from the ten foot front setback in A-17-199** based on the following findings of fact:

1. The carport encroachment is minimal.
2. The applicant could achieve the same coverage through a \n eave extension, by-right.