



City of San Antonio

Agenda Memorandum

File Number:18-1187

Agenda Item Number: 7.

Agenda Date: 1/8/2018

In Control: Board of Adjustment

Case Number: A-18-013
Applicant: Leticia and Luis Reyes
Owner: Leticia and Luis Reyes
Council District: 3
Location: 716 Naylor Street
Legal Description: The North Irregular 42.23 Feet of the West 19.93 Feet of Lot 10 and the North Irregular 32.5 Feet of Lot 11, Block 13, NCB 3219
Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager: Logan Sparrow, Principal Planner

Request

A request for 1) an eight foot variance from the ten foot front setback, as described in Section 35-310.01, to allow a carport to remain two feet from the front property line and 2) a four foot and six inch variance from the five foot side yard setbacks, as described in Section 35-310.01, to allow a carport six inches from the side property lines and 3) a request for a variance from the prohibition against corrugated or sheet metal fencing, as described in Section 35-514, to permit unauthorized fencing materials and 4) a special exception, as described in Section 35-399.04, to allow a seven foot tall solid screen fence in the front and rear yard of the property.

Executive Summary

The subject property is located at 716 Naylor Street, immediately southeast of its intersection with Zapata Street. The applicant formerly had a smaller carport, large enough to park one car. The owner then built a new, larger carport, with a pitch roof. The applicant was cited by Code Enforcement on October 26, 2017 for construction without a permit and for violation of several building setbacks. During field visits, staff noted additional violations on the property including unauthorized fence height and prohibited fencing materials. The carport is built nearly property line to property line, in violation of both side setbacks. Further, the carport is two feet from the front property line.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
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“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Home
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Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Home
South	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Home
East	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Home
West	“I-1 AHOD” General Industrial Airport Hazard Overlay District	Tile Manufacturing

Comprehensive Plan Consistency/Neighborhood Association

The subject property is within the boundaries of the South Central Community Plan and currently designated Low Density Residential in the future land use component of the plan. The subject property is not located within the boundaries of any registered neighborhood association.

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 served by setbacks, which help to provide consistent development within the City of San Antonio. The applicant is seeking a variance to allow the carport to be two feet from the front property line and six inches from the side property lines. The carport dominates the front yard of the property, and is out of place within the neighborhood. A six inch setback provides no room for maintenance without trespass, fails to provide adequate fire separation distances, and, due to the pitched roof, the carport will drain water onto adjacent property. Staff finds that the carport, as built, is contrary to the public interest. The applicant could modify the carport so that the posts meet the ten foot front setback, and have an eave extend into the front by as much as five feet; an alternative permitted by the Unified Development Code.

Staff supports reducing the side setbacks to three feet, which would provide adequate room for maintenance and would provide better separation for fire spread and rainwater runoff.

Staff finds that the sheet metal fencing is contrary to the public interest. It is an unsafe fencing material, and it detracts from the character of the community. While staff recognizes that the fence across the street, belonging to the industrial use is of similar material, staff cannot support the material for a residential property.

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

Staff is unable to establish any special condition that warrants reducing the front setback to only two feet. The applicant could modify the carport to have posts at ten feet, with an eave extension within five feet of the front property line. This alternative would not require a variance.

Staff can find no special condition present in this case to warrant reducing the side setback to as little as six inches. The request is unsafe, as it provides no room for maintenance without trespass, nor does a six inch setback protect adjacent property from fire spreading and rainwater runoff.

A three foot side setback would be more appropriate as it would address these concerns.

Lastly, staff can find no special condition that warrants approving the prohibited fencing materials. The use of corrugated or sheet metal for fencing is restricted because it is unsafe.

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. The intent of the code is to provide for consistent development and to establish room for maintenance, and to reduce the threat of fire spread. The requests to reduce the front and side setbacks do not observe the intent of the code.

Further, the request for corrugated or sheet metal fencing material does not honor the spirit of the code in that it introduces a design that is uncommon within the community and is unsafe.

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 by 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.*

While other structures in the neighborhood enjoy reduced setbacks, largely because they were built prior to 2001, staff cannot support a six inch side setback. It poses immediate risk to adjacent property and leaves no room for maintenance of the structure.

The carport could be modified to allow posts at ten feet with a five foot eave extension without a variance. Staff is supportive of variances to allow three foot side setbacks.

Staff finds that the fencing material detracts from the character of the community.

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.*

There are no unique circumstances present in this case. Had the applicant sought permits prior to construction, they would have been advised of alternative designs that meet the code. The variance requests are very likely merely financial in nature, as the applicant has already spent the money to build the illegal structures and fences.

Criteria for Review

According to Section 35-482(h) of the UDC, in order for special exception to be granted, 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 spirit of the chapter is intended to provide for reasonable protections to property owners and to establish a sense of community within our neighborhoods. The request for seven foot tall solid screen fencing in the front yard detracts from the spirit of the chapter.

Staff is supportive of the request for seven foot tall fencing in the rear yard of the property.

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

Staff finds that the public welfare will not be served as the front yard fence height is out of character within the neighborhood.

Staff is supportive of the request for seven foot tall fencing in the rear yard of the property.

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

The fence height is out of character within the community in which it is located. Such a tall fence encloses the subject property and the neighboring property, which can detract from the enjoyment of the adjacent property.

Staff finds that the request for taller rear yard fencing is less likely to injure adjacent property.

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 design of the fence is out of character within the community in which it is located.

Staff supports the request for rear yard fencing, as it is less likely to go noticed. Further, the applicant has an alley along their north property line, where the height is permitted by the Unified Development Code, Section 35-514.

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

The intent of the “R-4” Residential Single-Family District is to provide for the development of single-family homes with reasonable development restrictions to provide for the enjoyment of property. The special exception request to permit seven foot tall, solid screen fencing detracts from the neighborhood and conflicts with the purpose of the district.

Staff is supportive of the request for seven foot tall fencing in the rear yard of the property.

Alternative to Applicant’s Request

The applicant would need to adhere to the setbacks, permitted fence height, and permitted fencing materials as established by the Unified Development Code.

Staff Recommendation

Staff recommends **DENIAL OF THE VARIANCE REQUESTS WITH AN ALTERNATE RECOMMENDATION in A-18-013** based on the following findings of fact:

1. The carport is contrary to the public interest in that it fails to provide room for maintenance without trespass, does not provide adequate fire separation distances, and will drain rainwater onto adjacent property; and
2. A three foot side yard setback would address these development concerns; and
3. The carport could be modified to have post at ten feet, with a five foot eave extension, as permitted by

the unified Development Code; and

Staff recommends **DENIAL OF THE SPECIAL EXCEPTION REQUESTS WITH AN ALTERNATE RECOMMENDATION in A-18-013** based on the following findings of fact:

1. The request for seven foot tall front yard fencing is out of character within the community in which it is located; and
2. Staff recommends approval of the request for seven foot tall fencing in the rear yard of the property.