



City of San Antonio

Agenda Memorandum

File Number:18-1207

Agenda Item Number: 9.

Agenda Date: 1/8/2018

In Control: Board of Adjustment

Case Number: A-18-015
Applicant: Luciano and Olga Medina
Owner: Luciano and Olga Medina
Council District: 5
Location: 130 West Green Way Avenue
Legal: Lot 3 Except the South 8 Feet, Block 14, NCB 7546
Description:
Zoning: "R-6 AHOD" Residential Single-Family Airport Hazard
Overlay District
Case Manager: Oscar Aguilera, Planner

Request

A request for a four foot and eleven inch variance from the five foot side setback, as described in Section 35-516, to allow a carport to be one inch from the side property line.

Executive Summary

The subject property was destroyed by a fire and the applicant reconstructed the home and carport in the same place the original structures were erected. The applicant is requesting a variance to allow the carport to remain as constructed. The carport meets the front setback. The carport has gutters that prevent the water from draining onto the neighboring properties, and the adjacent property is vacant. The majority of the carports in the neighborhood have a similar side setback. The width of the carport is 9.5 feet.

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
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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 Kelly / South San PUEBLO Community Plan and is designated as Low Density Residential in the future land use component of the plan. The subject property is located within the boundaries of the Thompson 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. The proposed carport meets the front setback requirement. However, allowing the carport to remain one inch from the property line leaves no room for long term maintenance, and staff is concerned about the lack of safe fire separation distance.

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

Staff is unable to establish a special condition that warrants reducing the side setback by 98%.

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 fire separation. The current construction on the side property line does not observe the spirit of the code.

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-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.*

While staff recognizes that the adjacent lot is currently vacant, it won't be vacant forever. A fire has already destroyed homes on both lots and staff finds that permitting the structure one inch from the side property line could substantially injure the adjacent property.

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 of the property is that the home and the carport were destroyed in a recent fire. The applicant rebuilt the home and the carport in the same location that the original structures were erected.

Alternative to Applicant's Request

The applicant would have to comply with the side setback requirements, as established in the Unified Development Code.

Staff Recommendation

Staff recommends **DENIAL for A-18-015** based on the following findings of fact:

1. Allowing the carport to remain one inch from the property line leaves no room for long term maintenance without trespass; and
2. The lack of fire separation distances could substantially injure adjacent property.