



City of San Antonio

Agenda Memorandum

File Number:18-1923

Agenda Item Number: 8.

Agenda Date: 2/19/2018

In Control: Board of Adjustment

Case Number: A-18-031
Applicant: Felix Ziga
Owner: DL Investment Properties, LLC
Council District: 2
Location: 1130 Wyoming Street
Legal: Lot 21, Block 21, NCB 619
Description:
Zoning: "RM-4 AHOD" Residential Mixed Airport Hazard Overlay District
Case Manager: Debora Gonzalez, Senior Planner

Request

A request for a two foot and nine inch variance from the three foot rear setback requirement, as described in Section 35-370, to allow a carport to be three inches from the rear property line.

Executive Summary

The subject property is located at 1130 Wyoming Street intersection with South Pine Street. The applicant is seeking to build a detached metal carport for two vehicles. The carport is proposed to be three inches from a property line shared with another home. If approved, the structure would need to meet fire codes.

Subject Property Zoning/Land Use

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

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"RM-4 AHOD" Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling

South	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling
East	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling
West	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is within the boundaries of the Downtown Neighborhood Plan and currently designated Residential in the future land use component of the plan. The subject property is located within the Denver Heights 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 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 three inches from the rear property line. A three inch setback fails to provide adequate fire separation distance, provides no room for maintenance, and may drain water onto adjacent property. Staff finds that the carport, as proposed, is contrary to the public interest.

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

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 rear setback to three inches. The applicant could modify the proposed carport to have a two foot rear setback.

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 rear setback do not observe the intent of the code.

Staff supports a modified setback reduction to two feet, as it address these concerns.

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 “RM-4 AHOD” Residential Mixed 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, staff cannot support a three inch rear setback. It poses immediate risk to adjacent property and leaves no room for maintenance of the structure.

The carport could be modified to allow carport structure at two feet.

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 determine a unique circumstances existing on the site. The carport should be designed in a manner that respects the intent of the code.

Alternative to Applicant's Request

The alternative to the applicant's request would be to adhere to the accessory structure setback regulations in section 35-370.

Staff Recommendation

Staff recommends **DENIAL of the variance requests with an ALTERNATE RECOMMENDATION in A-18-031** based on the following findings of fact:

1. The carport is contrary to the public interest in that it fails to adequate fire separation distances; and;
2. A two foot rear setback would address these development concerns.