



City of San Antonio

Agenda Memorandum

File Number:18-6604

Agenda Item Number: 5.

Agenda Date: 12/3/2018

In Control: Board of Adjustment

Case Number: A-18-170

Applicant: Rene Yazguirre

Owner: Rene Yazguirre

Council District: 3

Location: 142 Shasta Avenue

Legal Lot 11, Block 3, NCB 9832

Description:

Zoning: "MF-33 MLOD-2 MLR-2 AHOD" Multi-Family Lackland
Military Lighting Overlay Military Lighting Region 2 Airport
Hazard Overlay District

Case Manager: Dominic Silva, Planner

Request

A request for a 4' variance from the 5' side setback requirement, as described in Section 35-310.01, to allow a carport to be 1' from the side property line.

Executive Summary

The subject property is located at 142 Shasta Avenue, approximately 976' west of Pleasanton Road. The applicant initially constructed a carport that did not follow the site plan and permit submitted to Development staff on July. The applicant is requesting a variance to allow the carport to stay as is within the side setback. There is currently no storm water controls installed on the carport.

The general character of the neighborhood consists of single-family residences, no garages, and attached carports. Generally, the carports staff saw during field inspections were of metal design. Additionally, because most residences on Shasta Avenue have attached carports within the side property, there is a pattern of reduced side setbacks.

Code Enforcement History

Code Enforcement was not involved in this project.

Permit History

The applicant applied for a carport permit on July 12, 2018 for a 540 square foot covered carport attached to the side of the existing residence. The site plan submitted with the application indicated the carport, at 12' wide, would be 5' from the side property line. The building frame inspector put the permit on a hold status pending a revised site plan or variance.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"MF-33 MLOD-2 MLR-2 AHOD" Multi-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"MF-33 MLOD-2 MLR-2 AHOD" Multi-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling
South	"MF-33 MLOD-2 MLR-2 AHOD" Multi-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling
East	"MF-33 MLOD-2 MLR-2 AHOD" Multi-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling
West	"MF-33 MLOD-2 MLR-2 AHOD" Multi-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The property is not located within the boundaries of any plan. The subject property is not located within a neighborhood association.

Street Classification

Shasta Avenue is classified as a Local street.

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 variance is contrary to the public interest. While the carport is designed such that rainwater runoff is not a concern for the applicant's property, the structure fails to adequately mitigate storm water runoff through installation of proper controls. Additionally, staff finds that the carport, as designed, could present a negative impact on the adjacent property due to the close proximity of an all-wood designed carport.

Staff recommends a 2' variance from the 5' side setback to allow the carport to be 3' from the side property line. The overhang can be removed with adequate space remaining to install property storm water controls and fire prevention material as required.

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

Staff cannot find any special conditions that, if enforced literally, would result in any unnecessary hardship. The applicant applied for a permit and submitted a site plan that indicated the carport would be 5' from the side property line. The applicant did not follow the site plan submitted and did not inform Development Staff.

The staff recommended 3' side setback would still allow the carport to remain while also maintaining adequate storm water control and limit fire spread to adjacent properties.

2. *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 setback limitation is to prevent fire spread, allow adequate space for maintenance, and encourage proper storm water drainage. With space available to remove the overhang and adhere to the requirements of zoning, staff cannot support the requested variance when alternative options are available that doesn't require Board approval.

Staff's recommendation of a 3' side setback allows adequate space for maintenance, encourage proper storm water drainage controls, and prevent fire spread while also allowing the applicant to keep the carport within the side property.

3. *The variance will not authorize the operation of a use other than those uses specifically authorized in the district in which the request for a variance is located.*

The variance will not authorize the operation of a use other than those uses specifically authorized in the "MF-33 MLOD-2 MLR-2 AHOD" Multi-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District.

4. *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.*

Although there are many attached carports within the side property similar to the applicant's along Shasta Avenue, the applicant's structure does not warrant a variance as requested due to the space available within the side setback to modify the carport and meet requirements without Board approval.

Staff recommends a 2' variance to allow the carport to be 3' from the side setback which allows adequate space to utilize the carport while also maintaining safe distances to limit fire spread and encourage proper storm water controls.

5. *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 could not find any unique circumstances that warrant the granting of the requested variance. Had the applicant submitted a site plan true to scale, staff could have assisted with an alternative design that benefits the applicant and the community.

Staff recommendation of a 2' variance from the 5' side setback to allow the carport to be 3' from the side property line would alleviate concerns of injuring the appropriate use of adjacent conforming properties while also eliminating the hardship of dismantling the carport altogether.

Alternative to Applicant's Request

Denial of the variance request would result in the owner having to meet the required side setback and adhere to Section 35-310.01.

Staff Recommendation

Staff recommends **DENIAL with an Alternate Recommendation of a 2' variance from the 5' side setback to allow a carport to be 3' from the side property line** in A-18-170, based on the following findings of fact:

1. With space present to remove the overhang and follow the require side setback, staff cannot support the variance requested, and;
2. The permit and site plan initially indicated the carport would be 5' from the side property line.