



City of San Antonio

Agenda Memorandum

File Number:19-1074

Agenda Item Number: 9.

Agenda Date: 12/17/2018

In Control: Board of Adjustment

Case Number: BOA-18-900018

Applicant: Hector Gonzalez

Owner: Hector Gonzalez

Council District: 6

Location: 122 Pharis Street

Legal Lot 75, NCB 8245

Description:

Zoning: "R-5 MLOD-2 MLR-1 AHOD" Residential Single-Family
Lackland Military Lighting Overlay Military Lighting
Region 1 Airport Hazard Overlay District

Case Manager: Debora Gonzalez, Senior Planner

Request

A request for 1) a 4'11" variance from the 5' side setback requirement, as described in Section 35-310.01, to allow an attached front porch to be 1" from the west side property line and 2) a 4'11" from the 5' side setback requirement, as described in Section 35-310.01, to allow an attached carport to be 1" from the west side property line, and 3) a request for a 45% variance from the 50% front yard impervious cover limitation, as described in Section 35-515 (d)(1), to allow 95% of the front yard to be covered in impervious cover.

Executive Summary

The subject property is situated at 122 Pharis Street, approximately 280 feet west of SW 36th Street. The owner is requesting to keep an attached porch and carport encroaching into the 5' side setback. The applicant is also seeking permission for the front yard to be covered in cement exceeding the 50% impervious cover limitation. This block has several properties with small carports within the side or front setback, but other homes meet the 50% maximum front yard impervious cover requirement.

Code Enforcement History

On 9.4.2018, Code Enforcement initiated a case against this property for building a carport without permits and violating the side setback.

Permit History

There is no permit history related to the carport or the porch. The property owner is seeking variances to allow for permits to be issued.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-5 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-5 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Dwelling
South	“R-5 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Dwelling
East	“R-5 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Dwelling
West	“R-5 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the West/Southwest Sector Plan and is currently designated “General Urban Tier” in the future land use component of the plan. The subject property is within the boundaries of the Community Workers Council Neighborhood Association. As such, they were notified and asked to comment.

Street Classification

Pharis Street 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. The porch and carport are not designed to mitigate rainwater within the subject property and the substantial size of the carport poses a negative impact on the adjacent property. The impervious coverage limitation preserves storm water management by reducing runoff and increasing storm water travel times. The subject property has had a pre-existing carport along the side of the house since at least 2007. Staff finds the requests are contrary to the public interest

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

There are no special conditions that prohibit the attached porch structure from meeting the 5' side setback; the subject property has an overbuilt carport. Staff is also unable to establish a special condition that would allow a request for a variance from the impervious coverage limitation requirements.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

The spirit of the ordinance will not be observed in that the spirit intends to provide for safe development throughout the community. Allowing the reduced setbacks limits room for maintenance and does not encourage proper storm water mitigation. The intent of the impervious coverage limitation requirements is to prevent water flooding and to preserve the character of the community.

4. *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 zoning 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.*

The carport was constructed without permits and the owner could have completed the construction of the attached porch and carport meeting the required setbacks. The impervious coverage decreases the amount of storm water retained on-site. Therefore, the requested variance could injure adjacent property owners.

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 did not find any unique circumstances that warrant the granting of the requested variance. The requested impervious coverage limitation does not mitigate water issues, exacerbates drainage issues, and detracts from the character of the community. The subject property has an over built carport and has adequate room in the front yard to accommodate parking.

Alternative to Applicant's Request

The applicant would need to adhere to the impervious coverage limitation as described in Section 35-515 (d) (1), and comply with the side and rear building setbacks as defined within Section 35-310.01.

Staff Recommendation

Staff recommends **DENIAL** of the variance in **BOA-18-900018**, based on the following findings of fact:

1. The requested impervious cover reduces the ability for storm water to enter the ground, which can harm adjacent property,
2. There are no unique circumstances present that warrant the requests, and;
3. The porch/carport and the impervious coverage will create inconsistency and alter the essential character of the neighborhood.