City of San Antonio

Agenda Memorandum

File Number: 19-5339

Agenda Item Number: 3.

Agenda Date: 7/15/2019

In Control: Board of Adjustment

Case Number:	BOA 19-10300079
Applicant:	Melinda DeLaFuente
Owner:	Melinda DeLaFuente
Council District:	6
Location:	7122 Woodgate Drive
Legal Description:	Lot 5, Block 14, NCB 15381
Zoning:	"R-6 MLOD-2 MLR-2 AHOD" Residential-Single Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Case Manager:	Mercedes Rivas, Planner

Request

A request for a 4'11" variance from the 5' side setback requirement, as described in Section 35-310.01, to allow a carport to be 1" away from the side property line.

Executive Summary

The applicant is requesting a decrease of the side building setback line to allow a proposed carport to be 1" from the side property line over an existing concrete slab. The applicant needs to encroach on the side building setback requirement to facilitate wheel chair accessibility from the front of the property to the rear of the property. Building inside the building side setback line would not provide enough room for the applicant's vehicle or wheelchair. Further, the applicant needs the carport to provide access to the vehicle while being sheltered from the elements.

Code Enforcement History

No Code Enforcement history exists on the property.

Permit History

The property owner is seeking a variance to allow for permit to be issued.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-6 MLOD-2 MLR-2 AHOD" Residential-Single 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	"R-6 MLOD-2 MLR-2 AHOD" Residential-Single 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	Multi-Family Dwelling
East	"R-6 MLOD-2 MLR-2 AHOD" Residential-Single Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling
West	"R-6 MLOD-2 MLR-2 AHOD" Residential-Single Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The property is located within the Meadow Village Sector Plan and is designated "General Urban Tier." The subject property is located within the Meadow Village Neighborhood Association. As such, they were notified and asked to comment.

Street Classification

Woodgate Drive 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 served by setbacks, which help to provide consistent development within the City of San

Antonio. The applicant is seeking a variance to construct a carport to remain 1 inch from the side property line. Allowing the carport to be one inch from the side property line interferes with the character of the neighborhood. Staff finds that the carport, as proposed, is contrary to the public interest.

However, a 2' variance from the 5' side setback to allow the carport to be 3' from the side property line may not be contrary to the public interest.

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 side setback to one inch.

However, a 2' variance from the 5' side setback to allow the carport to be 3' from the side property line may meet the intent of the code and allow for proper setbacks for maintenance.

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 is to provide enough of a setback to allow for long-term maintenance without trespass. The near elimination of the side setback requirement does not provide such clearance and does not observe the spirit of the ordinance.

However, a 2' variance from the 5' side setback to allow the carport to be 3' from the side property line may meet the spirit of the code and allow for proper setbacks for maintenance.

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 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 placement of a carport to be one inch from the side property line is contrary to the essential character of the district.

However, a 2' variance from the 5' side setback to allow the carport to be 3' from the side property line may not substantially injure 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.*

Staff is unable to determine any unique circumstance existing on the site that warrants the near elimination of the side setback requirement.

However, a 2' variance from the 5' side setback to allow the carport to be 3' from the side property line may still allow for proper setbacks and maintenance.

Alternative to Applicant's Request

Denial of the variance request would result in the owner having to meet the required five foot side setback.

Staff Recommendation

Staff recommends **DENIAL with an Alternate Recommendation of a 2' variance from the 5' side setback to allow an attached carport to be 3' from the side property line** in **19-10300079,** based on the following findings of fact**:**

1. The proposed attached carport is contrary to the public interest in that it detracts from the essential character of the community.