



City of San Antonio

Agenda Memorandum

File Number:19-6098

Agenda Item Number: 1.

Agenda Date: 8/19/2019

In Control: Board of Adjustment

Case Number: BOA-19-10300090
Applicant: John Grable
Owner: 7809 Broadway LTD
Council District: 10
Location: 7809 Broadway
Legal: The East Irregular 273.32 feet of Lot 3, Block 3, NCB 11891
Description:
Zoning: "O-2 AHOD" High-Rise Office Airport Hazard Overlay District
Case Manager: Debora Gonzalez, Senior Planner

Request

A request for a 3'6" variance from the 5' rear setback, also described in Section 35-370, to allow a carport to be 1'6" away from the rear property line.

Executive Summary

The applicant is seeking a variance to keep a carport replacement within the 5' rear setback. Per the applicant, the previous carport was built prior to 1995; however in 2016 it was destroyed in a tornado. The applicant applied for a permit in August 2018 and Development Services issued a permit issued in February 2019. In July 2019, during a code compliance officer inspection it was discovered that the carport was rebuilt without a Board of Adjustment variance approval.

The applicant states the carport was reconstructed within the footprint of the original carport that was destroyed during a tornado strike that occurred in 2016. There is currently a 6' privacy fence separating the commercial office from a single-family residence lot to the rear. The new carport is a steel structure with a metal roof which does not have any storm water controls present.

Code Enforcement History

On June 28, 2019 Code Enforcement issued a citation due to the carport encroaching in the 5' rear setback requirement.

Permit History

The applicant is waiting for variance to be approved to finalize inspection and close carport permit.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"O-2 AHOD" High-Rise Office Airport Hazard Overlay District	Offices

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"C-1 AHOD" Light Commercial Airport Hazard Overlay District	Apartments
South	"O-2 AHOD" High-Rise Office Airport Hazard Overlay District	Offices
East	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Childhood Center
West	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the San Antonio International Airport Vicinity Plan and it is currently designated as Neighborhood Commercial in the future land use component of the plan. The subject property is located within 200 feet of the boundaries of the Oak Park-Northwood Neighborhood Association. As such, they were notified and asked to comment.

Street Classification

Broadway Street is classified as a Minor 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 not contrary to the public interest. The original carport has been in the same location since 1995 with no registered complaints and the new carport is within the original footprint.

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

The new carport is built within the same footprint as the original carport that was damaged beyond

repair due to inclement weather in 2016. Literal enforcement of the ordinance would result in the applicant removing that portion of the carport that extends beyond the rear setback, leaving the carport unusable in its current format due to space limitations.

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 new carport is not overwhelming in size and follows the same footprint as the original carport that was built prior to 1995 with no registered complaints. Additionally, the carport is built entirely of metal.

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 is not noticeably out of character within the district in which it is located. The previous carport had been in place for over 20 years with no complaints. The district is characterized by commercial, multi-family and single-family dwellings. The variance requested will not substantially injure the appropriate uses of adjacent conforming properties or alter the character of the district.

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 variance being sought is due the reconstruction of a carport that was destroyed during tornado strikes in 2016. The new carport follows the same footprint as the previous and is made entirely of metal. The unique circumstances were not created by the owner and are not merely financial in nature, and are not due to or the result of general conditions in the district.

Alternative to Applicant's Request

Denial of the variance request would result in the owner having to meet the required rear setback and adhere to Section 35-370.

Staff Recommendation

Staff recommends **APPROVAL** of **BOA-19-10300090**, based on the following findings of fact:

1. The reconstructed carport is built within the footprint of the original carport that has been in place since 1995 with no registered complaints, and;
2. The reconstructed carport does not detract from the character of the neighborhood.