



City of San Antonio

Agenda Memorandum

File Number:19-8506

Agenda Item Number: 7.

Agenda Date: 11/18/2019

In Control: Board of Adjustment

Case Number: BOA-19-10300134
Applicant: Elena Huerta
Owner: Elena Huerta
Council District: 3
Location: 115 Hartford Avenue
Legal: Lot 77, Block 8, NCB 12036
Description:
Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard
Overlay District
Case Manager: Debora Gonzalez, Senior Planner

Request

A request for a 4'6" variance side setback from the 5' side setback requirement, as described in Section 35-310.01, to allow an attached carport to be 6" from the west property line.

Executive Summary

The subject property is located approximately 200 feet east of Clark Avenue. The applicant is requesting a variance to maintain a 6" side setback from the west property line to keep an attached carport, as built. The carport was rebuilt within the same foot print of the previous carport and is in the same location for approximately 11 years with no complaints until now. The applicant states that the carport was in place prior to change of ownership. Code Enforcement initiated this case on March 13, 2019. The structure is made entirely of wood. There are a few similar carports placed within the side setbacks near the applicant's property.

Code Enforcement History

On March 13, 2019 code enforcement initiated this case.

Permit History

No permit history related to the detached dwelling unit. The property owner is seeking a variance to allow a permit to be issued.

Zoning History

The subject property was annexed into the City of San Antonio by Ordinance #18115 dated September 25, 1952 as “B” Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “B” Residence District converted to the current “R-4” Single Family District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
South	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
East	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
West	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the Brooks Regional Center Area Plan and it is currently designated as “low density” in the future land use component of the plan. The subject property is located within the boundaries of the Highland Hills Neighborhood Association. As such, they were notified and asked to comment.

Street Classification

Hartford Avenue is classified as a Local Street.

Criteria for Review

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 6” from the side property line. The requested 6” side 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.

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 6”.

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 request to reduce the side setback does not observe the intent of the code.

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.*

While other structures in the neighborhood enjoy reduced setbacks, staff cannot support a 6” side setback. It poses immediate risk to adjacent property and leaves no room for maintenance of the structure.

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.

Alternative to Applicant’s Request

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

Staff Recommendation

Staff recommends **DENIAL** of the variance in **BOA-19-10300134**, based on the following findings of fact:

1. The request creates unsafe fire protection distances and drains water unto adjacent property.