



City of San Antonio

Agenda Memorandum

File Number:20-2309

Agenda Item Number: 7.

Agenda Date: 3/2/2020

In Control: Board of Adjustment

Case Number: BOA-20-10300004
Applicant: Margaret Sanchez
Owner: Margaret Sanchez
Council District: 3
Location: 1611 Schley Ave, San Antonio, 78210
Legal: Lot 24, Block 20, NCB 6653
Description:
Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard
Overlay District
Case Manager: Justin Malone, Planner

Request

A request for a 4' variance from the 5' side setback requirement, as described in section 35-516, to allow an attached carport to be 1' away from the side property line.

Executive Summary

The subject property is located at 1611 Schley Ave, approximately 835 feet from the intersection of South New Braunfels Road and Schley Avenue and approximately 535 feet from the intersection of South Gevers Street and Schley Avenue. The applicant submitted a site plan for a 225 square foot carport permit in 2017 and completed the structure with no inspections. In 2019, code enforcement issued a citation for violation of the side setback of the carport.

The applicant stated that the carport was built for safety and weather-related reasons. During site visits, Staff noted that the carport is 4.5 feet from the neighboring structure. Staff also notes a detached garaged located within the rear of the property.

The area is characterized by compact lots, driveways within the side property, and no carports.

Code Enforcement History

Code Enforcement issued a citation for the carport side setback in December 2019.

Permit History

The applicant submitted a site plan for a 225 square foot carport permit in 2017 and completed the structure with no inspections.

Zoning History

The subject property was part of the original 36 square miles of San Antonio, originally zoned “B” Residential district. Under the adoption of the 2001 Unified Development Code, Ordinance 93881 dated May 3, 2001, the “B” Residential zoning district converted to “R-4” Residential Single-Family Airport Hazard Overlay 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 subject property is within the boundaries of the Southeast Community Area Plan and currently designated as Low Density Residential in the future land use component of the plan. The subject property is located within the boundaries of the Highland Park Neighborhood Association. As such, they were notified and asked to comment.

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. Further, the carport is 4.5 feet away from the adjacent property

which could increase the risk of fire spread. Staff finds that the carport, as designed, could present a negative impact on the adjacent property.

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 can make use of the garage, and no special condition is present to warrant a carport of this size and placement. A permit was sought but didn't finalize inspections, which would have prevented violation of the side setback.

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 no storm water controls present and a large garage available for covered access staff cannot support the requested variance when alternative options are available.

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 "R-4" Residential 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.*

The carport is noticeably out of character within this district. There are no other carports of similar design or placement within the immediate vicinity. Staff finds the carport detracts from the essential character of the district. Staff notes that, while a carport can be permitted within the district, the location of the structure and availability of a garage does not warrant a variance.

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 followed through with the initial design and placement of the carport with the approval of their permit, as well as conducted city inspection, the applicant would have avoided the need for a variance.

Alternative to Applicant's Request

Denial of the variance request and special exception would result in the owner having to meet the required carports setback regulations in Section 35-516.

Staff Recommendation

Staff recommends **DENIAL** of **BOA-20-10300004**, based on the following findings of fact:

1. The carport does not adhere to the required 5' setback standards, and;
2. The carport is contrary to the public interest in that it fails to provide room for maintenance, may drain water onto adjacent property, and may increase the threat of fire spread.

