



City of San Antonio

Agenda Memorandum

File Number:20-3611

Agenda Item Number: 5.

Agenda Date: 6/15/2020

In Control: Board of Adjustment

Case Number: BOA-20-10300048
Applicant: Hector Aguilar
Owner: Hector Aguilar
Council District: 3
Location: 162 Idell Avenue
Legal: Lot 63, Block 7, NCB 12035
Description:
Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard
Overlay District
Case Manager: Dominic Silva, Senior Planner

Request

A request for a 3' variance from the required 5' side setback, as described in Section 35-370(b), to allow a carport to be 2' away from the side property line

Executive Summary

The subject property is a single family home located approximately 142 feet west of Pyle Street and 200' west of IH-37 South Access Road. The applicant is requesting to keep an attached carport built without permits within the side setback. The carport is built with the same style as the primary structure with minimal impervious covered utilizing driveway strips as the primary cover.

During field visits, staff noted numerous other carports built within the same standards as the subject property.

The applicant applied for the variance on May 13, 2020.

Code Enforcement History

Code enforcement initiated this case on April 17, 2020.

Permit History

The property has no permits on file related to this request.

Zoning History

The subject property was annexed in September 25, 1952 and zoned as “A” Temporary Residence District. The property was then rezoned to “B” Residence District by Ordinance 24277, dated January 24, 1957. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 3, 2001, the “B” Residence District converted to the current “R-4” Residential Single-Family District.

Subject Property Zoning/Land Use

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

Surrounding Zoning/Land Use

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

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Brooks Regional Center Area Plan and designated as “Low Density Residential” in the future land use component of the plan. The subject property is in the boundaries of the Highland Hills Neighborhood Association and as such, they were notified of the case.

Street Classification

Idell Avenue 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. In this case, the public interest is served by setbacks. In this instance, the carport maintains adequate space for

maintenance and fire separation while maintaining accessibility to light, air, and open space.

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

Staff notes the community is characterized by attached carports within the side setbacks. Literal enforcement of the setback limitation would result in unnecessary hardship by prohibiting the owner to utilize the carport as it was intended.

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 setback limitation is to prevent fire spread, allow adequate space for maintenance, and encourage proper storm water drainage. All intents of this law will be observed if approved.

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 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.*

This variance would not substantially injure or alter the use or character of adjacent conforming property or character of the district. The structure the variance is requested for follows a community norm of reduced side setbacks built within the area.

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 carport is built in character of the neighborhood with adequate space utilized for maintenance of the structure, storm water drainage, and accessibility to light, air, and open space.

Alternative to Applicant's Request

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

Staff Recommendation

Staff recommends **APPROVAL** of the variances in **BOA-20-10300048** based on the following findings of fact:

1. The request adheres to the spirit of the code, and;
2. The request does not negatively impact surrounding property owners, and;
3. Adequate space will be utilized for maintenance of the structure, storm water drainage, and accessibility to light, air, and open space.