



City of San Antonio

Agenda Memorandum

File Number:21-1619

Agenda Item Number: 5.

Agenda Date: 2/15/2021

In Control: Board of Adjustment

Case Number: BOA-20-10300141
Applicant: Rose Valdez
Owner: Rose Valdez
Council District: 7
Location: 2510 Cincinnati Avenue
Legal Description: Lot 7, Block 23, NCB 9243
Zoning: "R-4 MLOD-2 MLR-2 AHOD" Residential Single-Family
Lackland Military Lighting Overlay Military Lighting
Region 2 Airport Hazard Overlay District
Case Manager: Azadeh Sagheb, Planner

Request

A request for 1) a 1'4" variance to the minimum side setback requirement of 5', as described in Section 35-310.01, to allow a new addition having 1'2" overhang to be 3'8" away from the side property line, and 2) a 4'9" variance to the minimum side setback requirement of 5', also described in Section 35-310.01, to allow a detached carport to be 3" away from the side property line.

Executive Summary

The subject property is located at 2510 Cincinnati Avenue, a few blocks away from St. Mary's University. The neighborhood is predominantly surrounded by single-family properties.

The applicant built a new addition on the side of the existing house to use as storage. Built with a one-hour fire wall. There are three carports on this property built as temporary structures. Nails used to anchor the metal carports to the ground. One of the carports located in the rear yard is within the side setback and is 3" away from the side property line. The applicant is using this carport as a patio and storage area.

The applicant obtained a permit to build the new addition; however, the inspection approval is pending this variance.

Code Enforcement History

There is a violation record related to the Electrical permit that has been addressed.

Permit History

The applicant pulled a permit to build a new 160 sq. ft one story room attached to the primary structure on 10/16/2020. The electrical permit has been obtained.

Clear Vision Review

The Clear Vision standard review is not required.

Zoning History

The subject property was annexed to the City of San Antonio by Ordinance 5745, dated August 21, 1947, and was originally zoned as “B” Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property converted from “B” Residence District to the current “R-4” Residential Single-Family District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Residential

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Residential
South	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Residential
East	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Residential
West	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Residential

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the West/Southwest Sector Plan and is designated “General Urban Tier” in the future land use component of the plan. The subject property is located within the boundaries of University Park Neighborhood Association. As such, they were notified and asked to comment.

Street Classification

Cincinnati Avenue is classified as a local street.

Criteria for Review- Variance for the New Addition

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 requested for the side setback is not contrary to the public interest as the new addition is approximately 20’ away from the adjacent structure.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*
Staff finds that any special conditions that, if enforced, would result in unnecessary hardship. The new addition has already been built and if the variance is not granted the structure would have to be demolished.

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 defined as the intent of the code, rather than the exact letter of the law. The intent of the setbacks is to provide spacing between neighboring structures. Considering the 1’2” overhang, the new addition is 2’6” away from the side property line leaving enough space for long term 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.*

No uses other than those permitted within the district will be allowed with this variance.

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 addition was built with an hour exterior fire wall assembly and will be used as a storage. The request to reduce the side setback does not pose a risk of substantially injuring the use of adjacent properties and does not seem likely to alter the essential 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 unique circumstances existing on the property were not created by the owner of the property and are not merely financial. The applicant was not able to locate the exact property line when building the new addition.

Criteria for Review- Variance for the Carport

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 requested for the side setback encroachment of the carport is contrary to the public interest as the structure appears to be too close to the property line which creates maintenance challenges.

A 2'9" variance would allow the carport to be 3' away from the side property line leaving enough space for long term maintenance without trespassing.

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

Moving the carport over to be 3 feet away would be the intent of the code regarding accessory structures.

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 defined as the intent of the code, rather than the exact letter of the law. The intent of the side setbacks is to provide spacing between neighboring structures.

With a 2'9" variance for the carport having 1'2" overhang, there would still be adequate space between the subject property and the fence for maintenance. And the spirit of the ordinance would be observed, and substantial justice will be done.

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.*

No uses other than those permitted within the district will be allowed with this variance.

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 request to reduce the side setback will not substantially injure the appropriate use of adjacent conforming property. However, the carport could be moved to grant adequate space for maintenance without trespassing.

The applicant could shift the carport further away from the property line and maintain a 3' side setback without detracting from the character of surrounding community.

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 staff was not able to determine any unique circumstances to support the requested setback for the carport. The current request is for a 4'9" variance, but staff recommends a 2' 9" variance to allow the carport to be 3' from the side property line.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Setback Dimensions of the UDC Sections 35-310.01.

Staff Recommendation

Staff recommends **Approval** of a 1'4" variance to the minimum side setback requirement of 5' to allow a new addition to be 1'2" away from the side property line in **BOA-20-10300141** based on the following findings of fact:

1. The new addition is not overwhelming in size compared to the principal structure, and;
2. The new addition was built with an hour exterior fire-rated assembly which provides fire and life safety requirement, and;
3. The new addition allows adequate space for maintenance of the structure without trespass, keeps the character of the home unchanged.

Staff Recommendation

Staff recommends **Denial** of a 4'9" variance to allow a detached carport to be 3" away from the side property line **with an Alternate Recommendation of a 2'9" variance to allow a carport to be 3' away from the side property line** in **BOA-20-10300141** based on the following findings of fact:

4. The applicant can relocate the carport to maintain a 3 feet side setback, and;
5. The structure displacement would provide enough space for maintenance of the structure.