



City of San Antonio

Agenda Memorandum

File Number:15-1782

Agenda Item Number: 2.

Agenda Date: 3/2/2015

In Control: Board of Adjustment

To: Board of Adjustment
Case Number: A-15-039 CONTINUED
Date: March 02, 2015
Applicant: Diana Maria Bugarin
Owner: Diana Maria Bugarin
Council District: 1
Location: 1818 Alametos Street
Legal Description: Lot 6 & the W 36 feet of Lot 7, Block 94, NCB 8810
Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District
Prepared By: Margaret Pahl, AICP Senior Planner

Request

A request for 1) a 3 foot variance from the minimum 20 foot rear yard setback to allow a structure with a 17 foot rear setback and 2) a 3 foot 8 inch variance from the minimum 5 foot side yard setback, both as described in Section 35-370 to allow a structure 1 foot 4 inches from the side property line.

Executive Summary

The subject property is located at 1818 Alametos Street, 260 feet east of West Avenue. The applicant is seeking a variance to allow an existing covered carport/patio structure to remain near the side and rear property lines. The applicant states that the improvements were constructed in that location because of the small size of the lot, consisting of a portion of a lot. The carport is constructed a little more than 1 foot from the side property line. Additionally, the applicant did not pull any permits for the structure. Had the applicant applied for a permit, the setback violations could have been addressed prior to construction of the structure.

In actuality, the lot is large for the area, having 10,320 square feet, 86 feet wide, with a 19 foot side yard setback on the east side and a 22 foot setback on the west. The carport structure is nearly 18 feet wide and with future fire rated requirements could look more like a garage when completed. Prior to this recent construction, the lot included a small detached garage in the rear yard, which has been incorporated into the new structure. Because the gabled-roof structure was attached to the principal building, the full rear setback is required, rather than the reduced one for accessory structures. The minimum rear yard setback has been reduced by 5 feet because of the rear 10 foot wide alley. The carport structure is actually 12 feet from the property line, but only 15 feet is required because of this alley reduction.

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 | Two-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 Near Northwest Community Plan, adopted in February of 2002 and designated as Urban Low Density land use. The subject property is located within the boundaries of the Los Angeles Heights 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 public interest is represented by required setbacks to ensure equal access to air, light, and distance for fire separation. For this property, the structure is built very close to the side property line. This proximity results in a number of adverse impacts for adjacent properties including trespass for maintenance and an increased risk of fire spread. Staff finds that the requested side setback variance is contrary to the public interest.

The rear setback variance is less significant at 3 feet, still providing an adequate setback from the rear property line. If the covered patio were not connected to the principal structure, it would satisfy setback standards, making this request consistent with the public interest.

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

A literal enforcement of the side yard setback would require that the applicant reduce the width of the carport from 18 feet to 13 feet, ample room to protect a parked car. The applicant has submitted a letter from the adjacent property owner indicating support for the requested variance, however long-term maintenance will require trespass and owners change over time.

The rear setback currently provided at 12 feet represents the same rear setback historically provided by the detached garage. Changing this could result in an unnecessary hardship.

3. By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.

The spirit of the ordinance calls for setbacks to ensure access to air, light, and to provide for fire separation. As such, allowing the structure to remain at 1 foot 4 inches from the property line does not observe the spirit of the ordinance. In addition, fire resistant methods required could further reduce the setback.

The minimal 3 foot variance from the rear setback could be considered consistent with the spirit, since detached structures are allowed to be within 5 feet of the property line.

4. The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.

The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the “R-4 AHOD” Residential Single-Family Airport Hazard Overlay 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 requested variance is likely to harm the adjacent, conforming property. The existing carport structure is built 1 foot 4 inches from the property line and would require trespass in the event of needed maintenance. Additionally, the structure is constructed of wood and poses an increased threat of fire.

Along the rear alley, the structure is not likely to injure adjacent properties. There are several accessory buildings built near the rear property line and the provided setback ensures room for maintenance.

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 finds that there are no unique circumstances present in this case to warrant the granting of the requested side setback variance; the house had a 19 foot side setback prior to the construction. The applicant should have applied for a permit to construct the carport so the setback violation could have been identified prior to construction. Even though the existing driveway was wide enough to park 2 cars, no setback is required for flat work.

The existing garage in the rear is setback almost 3 feet from this side property line, a side setback far preferable than the current 1 foot. In addition, the roof has a slight overhang and no gutters to control stormwater. The requested rear setback modification is slight with current improvements 12 feet from the unimproved alley, requiring a 3 foot variance. A neighboring owner behind the structure however is in opposition because of the height as seen from her property.

Alternative to Applicant’s Request

The applicant needs to reduce the width of the carport to come into compliance with the side setback standards established by the Unified Development Code.

Staff Recommendation

Staff recommends **denial of the side setback variance requested in A-15-039** based on the following findings of fact:

1. The existing improvements trigger the need for trespass for adequate maintenance of the structure; and
2. The existing structure compromises equal access to air, light, and distance for fire separation.

Staff recommends **approval of the rear yard variance requested in A-15-039** based on the following

findings of fact:

1. The existing setback of 12 feet provides adequate room for maintenance and fire separation; and
2. The reduced setback is similar to several detached structures along the alley.