



City of San Antonio

Agenda Memorandum

File Number:15-3676

Agenda Item Number: 9.

Agenda Date: 6/15/2015

In Control: Board of Adjustment

Case Number: A-15-088
Applicant: Jose M Gonzalez
Owner: Jose M Gonzalez
Council District: 7
Location: 5250 Grovehill Drive
Legal Description: Lot 27, Block 15, NCB 14404
Zoning: "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District
Prepared By: Kristin Flores, Planner

Request

A request for the elimination of the five foot side yard setback, as described in Section 35-310.01, to allow a carport with an eave overhang to remain on the side property line.

Executive Summary

The subject property is located at 5250 Grovehill Drive approximately 157 feet east of Chesterhill Drive. The applicant built an attached carport made largely of wood and stucco, and did so without building permits. The applicant was cited by code enforcement. The carport is built along the side property line and detracts from the essential character of the community. The structure is wired with electric utility and has dome lighting on the ceiling. Staff finds that this results in an increased fire risk for adjacent, conforming properties.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

South	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
East	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
West	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the West Sector Plan and General Urban Tier in the future land use component of the plan. The subject property is located within the boundaries of the Culebra Park registered neighborhood association. As such, the neighborhood association was 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, these criteria are represented by setback requirements to reduce the threat of fire and to provide equal access to air and light. Staff finds that having a largely wooden and stucco structure with electric wiring on the side property line does create conditions by which fire could more rapidly spread to adjacent structures. Because the request seeks an elimination of the side yard setback and because the carport is largely of wooden construction, staff finds that the request to reduce the side setback is contrary to the public interest due to the increased risk of fire as the neighboring property is only 7.5 feet from the existing carport. If the requested variance is approved the applicant will have to submit plans to plan review to ensure compliance with building standards.

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

Staff is unable to determine any special conditions present on the subject property to grant variances to the side setback requirement. Had the applicant applied for a building permit, the setback issued could have been addressed prior to the construction of the carport.

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

Granting the requested side setback variance would not result in substantial justice. As a result of its wood construction, the structure poses an increased risk of fire to adjacent properties. Permitting conditions that place adjacent property owner at a heightened risk of fire threat does not result in substantial justice.

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-5 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 carport, as it exists, detracts from the essential character of the district in which it is located. The stucco design, although permitted within the district, is rare within this community. The expansion of the large stucco

home onto the side property line amplifies a design that is in conflict with 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.

Staff is unable to determine any unique circumstance present on the subject property to warrant the elimination of the side yard setback. The variances are requested because the carport was built without a building permit. As such, the plight of the owner was caused by the owner of the property.

Alternative to Applicant's Request

The applicant could remove three feet from the side of the carport to establish a three foot setback. This would help to protect adjacent property owners from fire risk.

Staff Recommendation

Staff recommends **DENIAL of the first variance in A-15-088** based on the following findings of fact:

1. The existing carport compromises fair and equal access to air and light and poses an increased fire risk.
2. The carport in its current location is out of character within the community.

Attachments

Attachment 1 - Notification Plan (Aerial Map)
Attachment 2 - Plot Plan (Aerial Map)
Attachment 3 - Site Plan
Attachment 4 - Site Photos