



City of San Antonio

Agenda Memorandum

File Number:15-4890

Agenda Item Number: 5.

Agenda Date: 9/21/2015

In Control: Board of Adjustment

Case Number: A-15-137
Applicant: Amelia Ibarra
Owner: Amelia Ibarra
Council District: 5
Location: 2206 Delgado Street
Legal Description: Lots 24 & 25, Block 15, NCB 3614
Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager: Kristin Flores, Planner

Request

A request for 1) a 2 foot variance from the minimum 5 foot side yard setback, as described in Table 35-310.01, to allow a carport to remain 3 feet from the property line; 2) a 4 foot variance from the minimum 5 foot side yard setback, as described in Table 35-310.01, to allow a home with an eave overhang to remain 1 foot from the property line.

Executive Summary

The subject property is located at 2206 Delgado Street approximately 108 feet west of NW 25th Street. The applicant constructed a home addition with eave overhang and carport, without permits, and was cited by Code.

An attached carport was built three feet from the applicant's shared side property line. The neighboring home is approximately 3 feet from the shared property line providing approximately 6 feet between the two structures. If the variance is granted, the applicant will be required to address fire separation construction requirements.

In addition, the applicant built an addition with an eave overhang 1 foot from the shared side property line. The neighboring property, adjacent to the home addition, is approximately 15 feet from the shared property line. As such, there is 16 foot spacing between the home addition and the neighboring home, more than the 10 foot spacing required by current code which mandates a five foot setback from each structure. Additionally, if the variance is approved, the applicant will have to meet fire rating standards for structures located within the minimum setback.

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 property is not located within the boundaries of Sector Plan or Neighborhood Plan. The subject property is located within the boundaries of the Prospect Hill 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 minimum side setbacks to protect home owners, and also to provide for a sense of community. The minimum setbacks are in place to protect the neighbor from fire hazard.

The carport is made largely of wood and, as it stands currently, is only six feet from adjacent structures. The carport, as presently constructed, is larger than needed for one car, but not large enough for two cars. Therefore, the applicant has sufficient space to adhere to the minimum five foot setback and continue to park one car inside of the carport. Allowing the carport to remain as built is contrary to the public interest.

Staff is recommending approval of an alternative to the request to allow the home addition to be located three feet from the side property line. The closest structure on the property adjacent to the home addition is currently located 15 feet from the shared property line. While the 15 foot distance represents sufficient spacing between neighboring structures it does not account for the neighboring property adding a carport in the future. With this alternative request, if, in the future, the neighboring property chooses to build a carport at the five foot setback 8 feet would still remain between the neighboring properties.

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

Staff is recommending denial of the two foot variance to allow the carport to remain three feet from the property line as there is no special condition present in this case. In addition, the carport, being made largely of wood, introduces an increased fire risk for adjacent properties.

Staff is recommending denial of the four foot variance request. While the neighboring property is currently 15 feet from the shared property line if, in the future, the owner of the adjacent property chooses to build a carport five feet from the property line there will only be six feet of space between the neighboring properties.

Staff is recommending approval of an alternative to allow the home addition, without an eave overhang, to be located three feet from the side property line. The alternative, if approved, provides reasonable fire protection in addition to fire mitigation measures that must be taken for structures build within the side setback.

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

Granting the requested variances will not result in substantial justice as the carport and home addition with eave overhang, in the current locations, pose an increased fire risk for adjacent properties.

Substantial justice will be served by granting the staff's alternative of allowing the home addition to be located three feet from the side property line in that, if the neighbor chooses to add a carport at the five foot setback, there would still be eight feet of spacing between the two structures.

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 carport, as it is constructed largely of wood, poses an increased fire risk to the adjacent property. In addition, contrary to other neighborhoods, there are very few carports in this neighborhood. In fact, staff was unable to locate any other carports on this block.

While the neighboring property is currently 15 feet from the property line this may not always be the case. There should be adequate space between the structures to prevent the spread of fire. If the neighboring property adds a carport, the current 15 foot distance would be reduced to 6 feet. This is potentially unsafe.

Staff is recommending approval of the alternative for a two foot variance from the minimum five foot setback to allow the home addition to be located three feet from the property line.

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 was unable to determine any unique circumstances that would warrant the granting of the requested variance for the carport encroaching into the side setback.

The unique circumstance present in this case, to warrant staff's alternate recommendation of a two foot variance for a home addition to be located three feet from the share property line, is the abnormally far location of the adjacent structure from the subject property.

Alternative to Applicant's Request

The applicant must reduce the width of the carport to meet the five foot minimum set back, as described in Table 35-310.01

The applicant can remove the eave overhand from the home addition to allow the structure to be located three feet from the property line. This distance would provide adequate spacing in the event the neighboring property constructed a carport.

Staff Recommendation

Staff recommends **DENIAL of a two foot variance to allow a carport to remain three feet from the property line in A-15-137** based on the following findings of fact:

1. The carport is made of wood thus increasing fire risk to the subject property and adjacent property;
2. Complying with the standard setbacks by removing 2 feet from the carport will still permit enough space for the applicant to park a car within the structure.;

Staff recommends **APPROVAL of a modified request for a two foot variance to allow a home addition to be located three feet from the side property line in A-15-137** based on the following findings of fact:

1. The modified request decreases fire hazard by leaving eight feet of space between neighboring structures on the properties in the event that, in the future, the neighbor adds a carport;
2. The modified request still allows the applicant to utilize the space as requested.

Attachments

Attachment 1 - Notification Plan (Aerial Map)

Attachment 2 - Plot Plan (Aerial Map)

Attachment 3 - Site Plan

Attachment 4 - Site Photos