



City of San Antonio

Agenda Memorandum

Agenda Date: June 03, 2024

In Control: Board of Adjustment Meeting

DEPARTMENT: Development Services Department

DEPARTMENT HEAD: Michael Shannon

CASE NUMBER: BOA-24-10300076

APPLICANT: Lizarde Guillermo

OWNER: Lizarde and Gloria Guillermo

COUNCIL DISTRICT IMPACTED: District 2

LOCATION: 331 Gulf Street

LEGAL DESCRIPTION: Lot 8A and Lot 8B, Block 7, NCB 6341

ZONING: “R-4 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

CASE MANAGER: Melanie Clark, Planner

A request for

1) A 2'-6” variance from the minimum 5' side setback to allow an accessory structure to be 2'-6” from the western side setback.

Section 35-370

2) A 4'-11” variance from the minimum 5' side setback to allow an accessory structure to be 1” from the eastern side setback.

Section 35-370

3) A 9'-11” variance from the minimum 10' setback to allow a carport with a 1” rear setback.

Section 35-370

Executive Summary

The subject property is located to the south of IH-35 North and directly east of North New Braunfels Avenue, with the rear of the property facing Dawson Street and the front of the property along Gulf Street. On March 27, 2024, Code Enforcement, responding to a Citizen Call, opened a UDC Investigation on the property due to the rear detached carport, located off Dawson Street, being less than 3' of the side setback of neighboring properties. During investigation, it was discovered that the carport (2006), along with a second story addition, (2009), were both constructed without permits. The applicant, also being the property owner, is seeking a 2'-6" side setback variance, a 4'-11" side setback variance and a 4'-11" carport setback variance to allow the detached carport/accessory structure to remain 2'-6" from the western side setback, 1" from the eastern side setback and a 1" from the rear setback in the rear yard. The more restrictive carport setback will encompass the required 5' accessory structure rear setback requirement if approved by the Board of Adjustment. Permits are pending Board of Adjustment's decision.

Code Enforcement History

INV-ZPS-24-3160001252 – Zoning- Property Setback
INV-ZPS-24-3160000924 - Zoning – Property Setback

Permit History

The applicant has not yet applied for the building permit.

Zoning History

The subject property was a part of the original 36 square miles of the City of San Antonio and zoned "B" Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned "B" Residence District converted to "R-4" Residential Single-Family District.

Subject Property Zoning/Land Use

Existing Zoning

"R-4 MLOD-3 MLR-2 AHOD" Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

Existing Use

Single-Family Residential

Surrounding Property Zoning/ Land Use

North

Existing Zoning

"MF-33 MLOD-3 MLR-2 AHOD" Multi-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

Existing Use

Single-Family Residential

South

Existing Zoning

“R-4 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

Existing Use

Single-Family Residential

East

Existing Zoning

“R-4 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

Existing Use

Single-Family Residential

West

Existing Zoning

“R-4 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

Existing Use

Single-Family Residential

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Arena District and is designated as “Medium Density Residential” in the future land use component of the plan. The subject property is located within the notification area of the Harvard Place Eastlawn Neighborhood Association, and they have been notified of the request.

Street Classification

Gulf Street is classified as a local road.

Dawson Street is classified as a local road.

Criteria for Review – Side Setbacks and Carport Setback Variance

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 maintaining minimum side setback requirements, as they ensure an accessory structure and carport are positioned a safe and suitable distance from property lines and roadways. Staff finds the reduced setbacks of the carport/accessory structure in rear yard will injure neighboring lots and cause water runoff into the properties. Additionally, a 1” rear setback is not an adequate distance as the carport/accessory structure abuts a local road and does not provide sufficient room for entering/exiting.

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

Staff has found no special condition that would result in an unnecessary hardship. There is adequate space for the structure to be reconstructed to meet the side and rear setback requirements.

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 side setbacks and carport setback requirements are intended to leave sufficient space between structure and abutting properties. Staff finds that the structure's location and use does not observe the spirit of the ordinance or intent of the code as the requested variances leave almost no space between structure, property lines and street access.

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 allowed 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.*

If granted, the carport/accessory structure will maintain a 2'-6" western side setback, a 1" eastern side setback and a 1" carport (rear) setback and injure the appropriate use of adjacent conforming properties as well as 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.*

Staff finds the plight of the owner of the property for which the variance is sought is not due to unique circumstances existing on the property. There is adequate space on the property for a carport/ accessory structure to meet the side and rear setback requirements.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the carport/accessory structure setback regulations of the UDC Section 35-370.

Staff Recommendation – Side Setbacks and Carport Setback Variance

Staff recommends Denial in BOA-24-10300076 based on the following findings of fact:

1. The reduced setbacks of the structure will injure neighboring lots and cause water runoff into the properties.

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2. The location of the structure will injure the appropriate use of adjacent conforming properties as well as alter the essential character of the district.