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| Case Number: | BOA-22-10300233 |
| Applicant: | Gilbert Rodriguez |
| Owner: | Gilbert Rodriguez |
| Council District: | 7 |
| Location: | 338 Senisa Drive |
| Legal Description: | Lot 6 and east 12 feet of Lot 5, NCB 9186 |
| Zoning: | “R-6 NCD-7 AHOD” Residential Single-Family Jefferson Neighborhood Conservation Airport Hazard Overlay District |
| Case Manager: | Vincent Trevino, Senior Planner |

Request

A request for 1) a request for a 5’ variance from the maximum 10’ front yard carport maximum height in the Jefferson Neighborhood Conservation District (NCD) design standards to allow a carport to be 15’ in height, 2) a request for a front yard carport roof design variance from the Jefferson Neighborhood Conservation District (NCD) design standards to allow a carport to have a pitched roof, 3) a request for a 5' variance from the 10' minimum front setback requirement, as described in Sec 35-516(g), to allow a carport to be 5’ from the front property line, and 4) a request for a 4’-11” variance from the minimum 5’ side yard requirement, as described in Sec. 35-310.01, to allow a carport to be 1” from the side property line.

Executive

Summary

The applicant has constructed a carport that measures 15’ in height and a pitched roof. The property is located within the Jefferson Neighborhood Conservation District (NCD), which allows carports up to 10’ in height and the roof designed to be flat. The constructed carport violates the Jefferson Neighborhood Conservation District (NCD) design standards. Additionally, the carport is 5’ from the front property line and 1" from the side property line. The Jefferson Neighborhood Conservation District was established on April 16, 2009.

Code Enforcement History

Zoning - Property Setback Created On 03/16/2022

PMT-Building Without A Permit Created On 03/16/2022

Permit History

There are no relevant permits on file. A permit is awaiting the Board of Adjustments Decision.

Zoning History

The subject property was annexed into the City Limits of San Antonio by Ordinance 1940 dated May 30, 1940 and was zoned “B” Residence District. Ordinance 86704, dated September 25, 1997, rezoned the property to “R-1” Single Family District. Upon adoption of the 2001 Unified Development Code, the zoning converted from “R-1” Single Family District to “R-6” Residential Single-Family District, established by Ordinance 93881, dated May 3, 2001.

Subject Property Zoning/Land Use

| Existing Zoning | Existing Use |
|--|------------------------|
| “R-6 NCD-7 AHOD” Residential Single-Family Jefferson Neighborhood Conservation Airport Hazard Overlay District | Single Family Dwelling |

Surrounding Zoning/Land Use

| Orientation | Existing Zoning District(s) | Existing Use |
|-------------|--|------------------------|
| North | “R-6 NCD-7 AHOD” Residential Single Family Jefferson Neighborhood Conservation Airport Hazard Overlay District | Single Family Dwelling |
| South | “R-6 NCD-7 AHOD” Residential Single Family Jefferson Neighborhood Conservation Airport Hazard Overlay District | Single Family Dwelling |
| East | “R-6 NCD-7 AHOD” Residential Single Family Jefferson Neighborhood Conservation Airport Hazard Overlay District | Single Family Dwelling |
| West | “R-6 NCD-7 AHOD” Residential Single Family Jefferson Neighborhood Conservation Airport Hazard Overlay District | Single Family Dwelling |

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Near Northwest Community Plan and is designated “Urban Low Density Residential” in the future land use component of the plan. The subject property is not located within any Neighborhood Association and they were notified of the case.

Street Classification

Senisa Drive is classified as a local road.

Criteria for Review - Jefferson Neighborhood Conservation District Design, Front and Side Setback Variances

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 applicant is requesting a variance to allow a 15’ carport height with a pitched roof. The Jefferson NCD requires a maximum height of 10’ and flat roof so the request does not follow the design standards and is contrary to the public interest.

The carport has the ability to move back to the 10’ front setback. The variance is contrary to the public interest.

The variance request is to allow a detached carport to be reduced to less than the minimum side setback requirements.

Staff finds an alternate recommendation for the minimum side setback requirement to be 3’ from the side property line. The carport is contrary to the public interest, there is sufficient space to allow the structure to be 3’ from the side property line.

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

The applicant would have to demolish or convert the structure to conform to the NCD design standards of a 10’ tall carport with a flat roof.

Staff does not find an unnecessary hardship due to the size of the front yard.

A literal enforcement of the ordinance would result in having to meet the minimum side setback from the property line. The subject property currently has an existing structure situated close to the side property line.

Staff finds an unnecessary hardship since the lot will allow for the development of a carport with the 5' side setback requirement.

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

The requested variance does not appear to observe the spirit of the ordinance as the height exceeds what is permitted.

The requested variance is to allow a carport to be closer to the front property line. Due to the configuration of the property and the front yard having adequate space, this will not observe the spirit of the ordinance.

The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. The carport has been constructed and the current setback is 4'-11" from the side property lines. The spirit of the ordinance will not be observed as there is no reasonable space between the structure and neighboring properties.

An alternate recommendation for the side setback variance would observe the spirit of the ordinance by still maintaining the side setback from the side property line.

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.*

The request for a variance may not be likely to negatively affect the adjacent neighboring property. However, the NCD was adopted to preserve the character of the district, and the standards are not being met by this variance.

No other properties located along Senisa Drive were observed to have accessory structures within the front setback that were approved by a Variance, therefore the request would alter the essential character of the neighborhood.

If granted, the detached structure will be subject to maintain a 4'-11" side setback from the side property line which is likely to negatively affect the adjacent neighboring properties.

In order to mitigate any adverse effects on neighboring properties, it is recommended that the detached structure maintain a 3' side setback from the side 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.

The variance is sought is not due to unique circumstances existing on the property, rather it is due to possible error in the measurements of the construction.

The variance is not sought is due to unique circumstances existing on the property such as the size and location of the lot. The variance request is not merely financial.

It appears the plight of the owner of the property for which the variance is sought is due to unique circumstances because of the width of the lot and configuration of the existing residence, maintaining a 3' side setback as staff is recommending is achievable. The request is not merely financial.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the height requirements established by the Jefferson Neighborhood Conservation District, Section 35-516(g), and Section 35-310.01 of the UDC.

Staff Recommendation – Jefferson NCD Design Standards Variance and Front Setback

Staff recommends Denial in BOA-22-10300233 based on the following findings of fact:

1. The carport does not uphold the Jefferson Neighborhood Conservation District design standards.
2. Enough room exists within the setbacks for a carport

Staff Recommendation – Side Setback Variance

Staff recommends Denial **with an Alternate Recommendation for a 3' setback from the side property line** in **BOA-22-10300233** based on the following findings of fact:

1. The accessory structure can adequately be setback 3' from the side property line; and
2. There is possible water runoff to the neighboring properties.