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| Case Number: | BOA-23-10300018 |
| Applicant: | Israel Gonzalez |
| Owner: | Israel Gonzalez |
| Council District: | 1 |
| Location: | 1114 Lee Hall |
| Legal Description: | Lot 7, Block 81, NCB 7195 |
| Zoning: | “R-4 AHOD” Residential Single-Family Airport Hazard Overlay District |
| Case Manager: | Jake Exler, Planner |

Request

A request for 1) a 5’-6” variance from the 10’ front setback requirement, as described in Sec. 310.01, to allow a carport to be 4’-6” from the front property line, 2) a 4’-11” variance from the 5’ side setback requirement, as described in Sec. 310.01, to allow a carport with a 12” overhang to be 1” from the side property line, 3) a variance to allow a corrugated metal fence, as described in Sec. 35-514(a)(6), in the rear and back yard, and 4) a variance from the maximum 50% impervious cover requirement, as described in Sec. 35-515(d), to allow the front yard to exceed the 50% impervious cover.

Executive Summary

The subject property is located along Lee Hall on the north central side of San Antonio. The case was reported by Code Enforcement Services for building a carport without a permit. Upon the site visit, staff noticed that the carport was 4’-6” from the property line, 5’-6” short of the 10’ front setback requirement. Staff also noticed an overhang on the carport that crosses the property line. Staff observed a corrugated metal fence in the rear and back yard. On the site visit, staff also noticed that the front yard exceeded the 50% limit.

Code Enforcement History

The case was reported by Code Enforcement on January 2, 2023 for building a carport without a permit.

Permit History

No permits were obtained.

Zoning History

The property was annexed into the City of San Antonio by Ordinance 1845, dated May 6, 1940 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 the current “R-4” Residential Single-Family District.

Subject Property Zoning/Land Use

| Existing Zoning | Existing Use |
|--|-------------------------|
| “R-4 AHOD” Residential Single-Family Airport Hazard Overlay District | Single-Family Residence |

Surrounding Zoning/Land Use

| Orientation | Existing Zoning District(s) | Existing Use |
|-------------|-----------------------------|--------------|
|-------------|-----------------------------|--------------|

| North | "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District | Single-Family Residence |
|-------|--|-------------------------|
| South | "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District | Single-Family Residence |
| East | "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District | Single-Family Residence |
| West | "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District | Single-Family Residence |

Comprehensive Plan Consistency/Neighborhood Association

The subject property is under the Greater Dellview Area Community Plan and the future land use is Low Density Residential. The subject property is in the Central Neighborhood Association.

Street Classification

Lee Hall is classified as a local street.

Criteria for Review – Front Setback, Side Setback, Corrugated Metal, and Impervious Cover 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 public interest is defined as the general health, safety, and welfare of the public. The carport is only 4'6" from the front property line and so is contrary to the public interest. Allowing a 1" side setback variance would injure the neighboring property as it may cause water runoff. Corrugated metal is not used in other fences in the area. Additionally, the impervious cover exceeds 50%, which increases water runoff.

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

A literal enforcement of the ordinance would not result in unnecessary hardship as the applicant would need to rebuild or alter the carport to fit with the ordinance. The applicant would simply have to replace the corrugated metal fence and would need to remove concrete in the front yard.

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. Reducing the front and side setback requirement would injure neighboring properties. There is no reason why the applicant needs a corrugated metal fence or for the front yard to exceed the impervious cover requirement, so the spirit of the ordinance would not be observed.

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 reduced front and side setback would injure the adjacent properties as the overhang will allow rain water to pool on the neighbor's property. No other corrugated metal fences or excessive impervious cover was observed in the area.

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 variances are sought are not due to unique circumstances existing on the property.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Setback Regulations under Section 35-310.01, Fence Material Regulations listed under Section 35-514(a)(6) and Impervious Cover under Section 35-515(d) of the UDC.

Staff Recommendation – Rear, Side Setback, Corrugated Metal Fence, and Impervious Cover Variances

Staff recommends Denial in BOA-23-10300018 based on the following findings of fact:

1. The reduced front and rear setback injure neighboring properties; and
2. No other corrugated metal fences were found in the area; and
3. The impervious cover greatly exceeds the 50%.