

Legislation Details (With Text)

File #:	21-1083	Name:	
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On agenda:	10/28/2021	Final action:	
Title:	ZB21-0006 Hold a public hearing and consider a request for a variance to Section 3.4-2(b)(1)(iii) to allow a proposed carport addition to the main structure to encroach up to 4 feet and 3 inches into the required 5-foot side setback in the "R-1A-6.6" Single-Family District, addressed at 186 E. Lincoln Street.		
Sponsors:			
Indexes:			
Code sections:			
Attachments:	1. Aerial Map, 2. Application, 3. Proposed Site Plan, 4. Carport Elevation Example, 5. Pictures of Subject Property, 6. Notification Packet and Responses, 7. Sec. 3.4-2 R-1A-6.6 Single Family District		
Date	Ver.	Action By	Action
			Result

Presenter/Contact
Applicant: Chandler Gray
(512) 658-2490 - gray.texas@gmail.com

SUBJECT:

ZB21-0006 Hold a public hearing and consider a request for a variance to Section 3.4-2(b)(1)(iii) to allow a proposed carport addition to the main structure to encroach up to 4 feet and 3 inches into the required 5-foot side setback in the "R-1A-6.6" Single-Family District, addressed at 186 E. Lincoln Street.

BACKGROUND / RATIONALE:

Case #: ZB21-0006

Applicant: Robert S. and Chandler B. Gray
186 E. Lincoln Street
New Braunfels, TX 78130
(512) 658-2490 - gray.texas@gmail.com

Staff Contact: Maddison O'Kelley
(830) 221-4056 - [<mokelley@nbtexas.org>](mailto:mokelley@nbtexas.org)

The subject property is located on E. Lincoln Street and is zoned "R-1A-6.6" Single-Family District. The property is approximately 220 feet in depth and 50 feet in width, totaling 11,000 square feet in area. The lot width is approximately 10 feet less than the minimum 60-foot width required for residential interior lots in the "R-1A-6.6" district. The rear property line abuts the Comal River and approximately 70% of the property is located within the 1% annual chance floodplain. Due to the required setbacks within the "R-1A-6.6" district, the buildable area is 40 feet wide by 175 feet deep

(7,000 square feet in area).

There is an existing single-family dwelling on the property that is approximately 1,488 square feet in area that was constructed in 1933. A variance was granted to the property in 2001 to allow the house to maintain its existing 3-foot setback from the side property line and to allow a proposed addition at the rear of the house to encroach up to three feet into the 5-foot side setback. The addition was constructed in 2001 and is approximately 320 square feet in area. The width of the house is 40.3 feet.

The applicant is proposing to construct a carport addition at the front of the home that will be structurally attached to the northeast corner of the front porch. Because the carport is proposed to be structurally attached to the dwelling, it is considered a part of the main structure. The carport addition is 18.5 feet wide and 20 feet deep. The applicant is requesting a variance to allow the proposed carport to encroach up to 4 feet and 3 inches into the required 5-foot side setback for main structures in the "R-1A-6.6" District. If the variance is approved, the carport would be set back 9 inches from the side property line.

Section 2.2-3(a) of the Zoning Ordinance states the ZBA may authorize a variance from the zoning regulations only upon finding all of the following facts:

- 1) That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of this Chapter would deprive the applicant of the reasonable use of land;** (The applicant cites the property's 50-foot width and the existing 3-foot side setback encroachment of the home as two special circumstances that affect the land. The applicant states the proposed sunshade (carport) would follow along the edge of the house, but, due to the city's setback requirements, the sunshade would not be in compliance with the 5-foot side setback requirement. Staff notes that the minimum width for all interior lots in "R-1A-6.6" is 60 feet and that the subject property is only 50 feet wide. However, there are several residential districts within the city where 50-foot wide lots exist and 5-foot wide setbacks are maintained. Setback requirements are not a special circumstance of the land itself since their impact on development of the subject property is shared with other residential properties with the same zoning. Furthermore, the applicant states the purpose of the carport's proposed location is to keep it in line with the existing house, but the house is set back approximately 3 feet from the property line. Additional explanation has not been provided as to why it would be necessary for the carport to be constructed 9 inches from the side property line, 27 inches closer than the existing house.)
and
- 2) That the variance is necessary for the preservation and enjoyment of a substantial property right of the applicant;** (The applicant states the existing driveway was permitted in 2001 and that he would prefer to build the sunshade in the same location as the driveway. The applicant further states the intent of the variance request is to enhance the home and better protect his vehicles without constructing a fully enclosed garage. The applicant states granting the variance would help protect his vehicles which would provide a reasonable use of the land. Staff notes the substantial property right to use the property for a residential dwelling is not removed due to the width of the lot nor the side setback requirement.) **and**
- 3) That the granting of the variance will not be detrimental to the public health, safety or welfare, or injurious to other property within the area;** (The applicant states the

variance should not be detrimental to public health, safety or welfare.) **and**

4) Granting of the variance will not have the effect of preventing the orderly use of other land within the area in accordance with the provisions of this Chapter; (The applicant believes the variance should not prevent orderly use of other land within the area. Staff notes all neighboring properties will still be required to comply with zoning ordinance standards for any new construction and the permit construction plans must meet the minimum building code requirements for structures built within 5 feet of a property line.) **and**

5) That an undue hardship exists; (The applicant cites the width of the lot, age of the dwelling, and the year in which the property was platted as hardships that affect the land itself due to each circumstance predating the modern standard for garages and off-street parking for vehicles. The applicant further states that most homes in the neighborhood have a structure used to protect vehicles and the applicant would like to do the same. Staff has not identified a physical hardship due to the nature of the land itself that is not shared by other residential property within the neighborhood. Staff acknowledges the lot is only 50 feet wide where the district requires 60-foot wide interior lots, however, a carport of 18.5 feet in width would appear to have sufficient room on the lot to be located to maintain the 5-foot setback.) **and**

6) That the granting of a variance will be in harmony with the spirit and purpose of these regulations. (The applicant states all other features, other than the side setback, of the proposed carport will conform to city regulations. The applicant further states the two-post carport will be neutral in color and set back further from the front property line than neighboring garages and carports. Staff acknowledges the carport's conformity to all other requirements adopted within the zoning ordinance as proposed. Staff notes there are additional requirements for structures built within 5 feet of a property line under the building code that will be subject to review during the permit application for the carport per Section R302.1(1) of the International Residential Code.)

Per Section 2.2-3 of the Zoning Ordinance, a variance shall not be granted to relieve a self-created or personal hardship, nor based solely on economic gain or loss, nor shall it permit any person the privilege in developing a parcel of land not permitted by Chapter 144 to other parcels of land in the particular zoning district. No variance may be granted which results in undue hardship upon another parcel of land.

GENERAL INFORMATION:

Size:

11,000 square feet in area

220 feet in depth

50 feet in width

Variance Request Due to Notice of Violation:

No

Surrounding Zoning and Land Use:

North - Across E. Lincoln Street, R-1A-6.6 / Single Family Dwellings

South - Across Comal River, R-1A-6.6 / Single Family Dwelling

East - R-1A-6.6 / Single Family Dwellings

West - R-1A-6.6/ Single family Dwellings

Notification

Public hearing notices were sent to 17 owners of property within 200 feet. Staff has not received any responses in favor or in objection.

Attachments:

1. Aerial Map
2. Application
3. Proposed Site Plan
4. Carport Elevation Example
5. Pictures of Subject Property
6. Notification Packet
7. Sec. 3.4-2 "R-1A-6.6" Single-Family District