

# STAFF REPORT

**DATE:** July 25, 2018

**TO:** Board of Adjustment

**FROM:** Zoning Administration  
Planning & Development  
Services Department

## **ACTIVITY NO. T18SA00238**

**C10-18-08 RODRIGUEZ RESIDENCE CARPORT ADDITION / JIMENEZ BASILIO RODRIGUEZ, BERNAL MARTIN RODRIGUEZ, RODRIGUEZ ESTHER JIMENEZ / 444 WEST ALTURAS STREET, C-2**

The applicants' property is an approximately 5,871 square foot lot zoned C-2 "Commercial" and is developed with a single-family residence. An attached carport was constructed without prior zoning approval or permits. The applicants are seeking the necessary zoning approval to allow the carport to remain as constructed.

### THE APPLICANTS' REQUEST TO THE BOARD

The applicants are requesting the following variance:

- 1) Allow the carport to remain as constructed with the side perimeter yard setback reduced from 10' to 0' as measured from the east lot line, all as shown on the submitted plans.

### APPLICABLE TUCSON ZONING CODE SECTIONS

Tucson *Unified Development Code (UDC)* sections applicable to this project include, in part, the following:

Section 4.7.21 *Commercial Zone (C-2)* and Table 4.8-4 *Permitted Uses – Commercial and Mixed Use Zones*, which provides the criteria for residential development in the C-2 zone; and

Section 6.4.5 *Perimeter Yards* and Table 6.3-4.A *Dimensional Standards for the C-1, C-2, C-3, OCR-1 & OCR-2 Zones*, which provide the dimensional standards applicable to all principal and accessory structures.

### GENERAL DEVELOPMENT INFORMATION

#### Zoning and Land Use

**SITE: ZONED C-2; (commercial zone, used as single-family residential)**

North: Zoned C-2; (single-family residential)

South: Zoned C-2; (commercial zone, across Alturas – residential trailer park)

East: Zoned C-2; (commercial zone and use)

West: Zoned C-2; (single-family residential)

## **RELATED PLAN REVIEWS**

### **Engineering**

The Engineering Section of Planning and Development Services Department had no comments, as the location is not within a floodplain.

### **Residential Review**

The carport has a structural masonry wall with parapet above the carport roof at the east property line. Per building code, the wall is required to contain a minimum of one (1) hour fire rated materials for the proposed 0" setback, as indicated on the submitted plans.

**Environmental Services Department (ESD) - Code Enforcement Division:** Case No. T17DV03544 - A notice of violation was issued on August 8, 2017 for a complaint related to a site perimeter wall constructed without review and construction of a porch in the front yard without permits. The wall has a permit T17BU00552. (The porch is shown on the site plan as meeting setbacks from the street front perimeter yard, greater than 20' setback.)

No. T17DV03605 – A notice of violation was issued on August 10, 2017 for the construction of the porches and carport without obtaining zoning approval. The status of the carport is now pending the outcome of this variance application. (The porch from the street perimeter front yard is on the same permit application as the carport, and can be separated to a different permit if required.)

## **BOARD OF ADJUSTMENT FINDINGS**

The Board of Adjustment can hear and decide a variance request from the regulations listed in the Unified Development Code. The Board may grant a variance only if it finds the following:

1. That, because there are special circumstances applicable to the property, strict enforcement of the UDC will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district.
2. That such special circumstances were not self-imposed or created by the owner or one in possession of the property.
3. That the variance granted is subject to such conditions as will assure that the adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.
4. That, because of special circumstances applicable to the property, including its size, shape, topography, location, and surroundings, the property cannot reasonably be developed in conformity with the provisions of the UDC.

5. That the granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.
6. That the proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase congestion, or substantially diminish or impair property values within the neighborhood.
7. That the variance, if granted, is the minimum variance that will afford relief and is the least modification possible of the UDC provisions which are in question.

### **ZONING ADMINISTRATION CONSIDERATIONS**

The applicants' property is an approximately 5,871 square foot lot zoned C-2 "Commercial" and is developed with a single-family residence. An attached carport with block wall was constructed without prior zoning approval or permits. The applicants are seeking the necessary zoning approval to allow the carport to remain as constructed and build the block wall to the fire wall requirements as a parapet above the carport roof. The permit review process triggers compliance with technical codes for new construction.

### **Attached Carport**

The Tucson *Unified Development Code (UDC)* sections applicable to this project include, but are not limited to, Section 4.7.21 and Table 4.8-4 which provides the criteria for residential development in the C-2 zone and Section 6.4.5 and Table 6.3-4.A which provide the dimensional standards applicable to all principal and accessory structures.

The required perimeter yard setback for the attached carport is the greater of 10' or  $\frac{3}{4}$  of the height of the exterior building wall, as measured from the east property line to the east carport wall. The block wall ultimate height is planned at nearly 11 feet, approximately 2.5 to 3' above the carport roof. The applicant is requesting a variance to reduce the perimeter yard setback to remain built up to (0" from) the east property line.

### **Discussion**

The property is located in an established residential neighborhood consisting of lots of similar size, 5800 square feet. The neighborhood is zoned "C-2" commercial, but is developed with a single-family residence. An attached carport with block wall at the east property line was constructed without prior zoning approval or permits. The applicants are seeking the necessary zoning approval to allow the carport to remain as constructed, and build the block wall to the fire wall requirements as a parapet above the carport roof.

Although the lot is of sufficient size for residential development within C-2 zoning, per aerial and street views, there are two driveways for this property, one at the far east and one at the far west end of the lot, with vehicle access and parking between driveways. (The submitted site plan is in error, showing one driveway at the east.) The house is constructed to or within current side yard setbacks, and nearly up to the front street perimeter yard setback of 20 feet. The west side yard is

approximately 7 feet wide and the east side yard is 10' wide. The east side yard is currently used as a permitted parking space, and is the most sufficient area to provide a shaded parking space.

**Conclusion**

Given that special circumstances exist such as existing site conditions that restrict the buildable area; and does not constitute a granting of special privileges inconsistent with the limitations upon other properties in the vicinity and zone, staff has no objection to the requested variance.

**NEIGHBORHOOD CONTACT (BY APPLICANT)**

See the attached neighborhood notification by the applicant, dated March 12, 2018 and the summary of the onsite meeting dated May 29, 2018. The meeting was held on site on March 31, 2018; no one attended.

**PLANNING & DEVELOPMENT SERVICES RECOMMENDATION**

PDS staff has no objection to the applicant's requested variance.

It is the opinion of staff there are special circumstances applicable to the property; that granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; and that the variances requested are the minimum needed to afford relief and the least modification possible of those *UDC* provisions which are in question.

Heather Thrall, Lead Planner  
for  
Russlyn Wells, Acting Zoning Administrator

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