

STAFF REPORT

DATE: September 25, 2019

TO: Board of Adjustment

FROM: Zoning Administration
Planning & Development
Services Department

ACTIVITY NO. T19SA00316

**C10-19-15 FREGOSO RESIDENCE / CARPORTS AND PORCH ADDITION /
JOSE FREGOSO / 5138 S. FREMONT DRIVE, R-2**

The applicant's property is an approximately 4,950 square foot lot zoned R-2 and is developed with a three bedroom one story single family residence with attached carports and covered porch. The attached carports and porch addition were constructed without prior zoning approval or permits. The applicant is seeking the necessary zoning approvals to allow the carport and porch addition to remain as constructed, with minor modifications for fire code compliance as depicted in the construction drawings.

THE APPLICANT'S REQUEST TO THE BOARD

The applicant is requesting the following variances:

- 1) Allow the attached carport and porch addition to be modified to provide for a reduced side perimeter yard setback from 6' to 3', as measured to the east lot line.
- 2) Allow the attached carport and porch addition to remain as constructed with a reduced front street perimeter yard setback from 20' to 4", as measured to the north (S. Fremont) lot line.

APPLICABLE TUCSON ZONING CODE SECTIONS

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

Section 4.7.9 *Residence Zone (R-2)*, Table 4.8-2 *Permitted Uses – Urban Residential Zones* and Section 4.9.7.B.6, .9, .10 which provide the use criteria applicable to residential development in the R-2 zone, and

Section 6.3.4 *Dimensional Standards and Exceptions Tables* and Table 6.3-2.A *Dimensional Standards for the R-2 Zone*, which provide the development standards applicable to all principal and accessory structures.

GENERAL DEVELOPMENT INFORMATION

Zoning and Land Use

SITE: ZONED R-2; (single-family residential)

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

South: Zoned R-2; (single-family residential)

East: Zoned R-2; (single-family residential)

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

RELATED PLAN REVIEWS

Engineering

The Engineering Section of Planning and Development Services Department has no objections or adverse comments.

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 that are in question.

ZONING ADMINISTRATION CONSIDERATIONS

The applicant's property is an approximately 4,950 square foot lot zoned R-2 and is developed with a three bedroom one story single family residence with attached carports and covered porch. The attached carports and porch addition were constructed without prior zoning approval or permits. The applicant is seeking the necessary zoning approvals to allow the carports and porch addition to remain as constructed, with slight modifications for fire code compliance.

Attached Covered Porch and Carport

Section 4.7.9, Table 4.8-2 and Section 4.9.7.B.6, .9, .10 provide the use criteria applicable to residential development in the R-2 zone

Per *Unified Development Code (UDC)* Sections 6.3.4, 6.4.5 and Table 6.3-2.A, the required perimeter yard setback for the existing carport is 6' as measured from the east lot line. The applicant is requesting a variance to reduce the side perimeter yard setback for the attached carport to 3'.

The required perimeter yard setback for the existing covered porch is 6' measured from the east lot line. The applicant is requesting a variance to reduce the side perimeter yard setback for the attached covered porch to 3'.

The required street perimeter yard setback is 20'. The applicant is requesting a variance to reduce the street perimeter yard setback for the attached carport and porch to 4'.

Discussion

The applicant constructed the existing carport and covered porch addition without the required approvals. As currently constructed the carport and porch addition are setback 4" as measured to the east lot line and 4" as measured to the north (S. Fremont) lot line. Due to the proximity of the structures to the adjacent lot to the east, the applicant is required to modify the existing structures for compliance with fire regulations. The applicant is requesting to reconfigure the existing posts of the carport and porch addition to allow for a 3' setback as measured to the east lot line. The applicant is requesting to allow the carport and porch addition to remain as constructed in regard to the 4" front street perimeter yard setback as measured to the north (S. Fremont) lot line.

As a general rule, parking in R-2 zones is permitted anywhere in the buildable area between the front of the dwelling and the front street lot line with no restriction on the number of vehicles or size of the parking area. The use of the applicant's buildable area at the property is consistent with other properties in the neighborhood. Additionally, the property's curb cut and driveway area is existing and there is no other logical place on the property to provide parking. Further, patio slabs are not subject to building setbacks. The applicant's addition of shade structures over existing concrete patios helps to mitigate potential negative impacts from excessive heat radiation. Lastly, by increasing the setback of the carport and porch addition to 3' from the east property line increased air circulation is provided.

Conclusion

Given that there are special circumstances, such as existing site conditions that make it reasonable for the applicant to utilize the property's front lot buildable area for parking and the applicant's use of the buildable area is consistent with other properties in the neighborhood and this does not constitute a granting of special privileges inconsistent with the limitations upon other properties in the vicinity and zone, staff supports the requested variances, with conditions.

NEIGHBORHOOD CONTACT (BY APPLICANT)

See the attached neighborhood notification dated February 19, 2019 and meeting summary dated March 5, 2019 and May 17, 2019.

PLANNING & DEVELOPMENT SERVICES RECOMMENDATION

PDSD staff has no objection to the applicant's requested variances subject to the following condition:

- A. No parking in the area between the carport and curb.

It is the opinion of staff that there are special circumstances applicable to the property; that granting 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.

Mallory Ress, Planner
for
Russlyn Wells, Acting Zoning Administrator

RW::MR:s/zoning administration/ba/C10-19-15