

Council Meeting Staff Report

October 17, 2016

Agenda No.: A.

Indexes (Council Goals):

Presenters:

Legislative File: 8712-16

Title

Case No. 16-BOA-002: Willard (Bill) Hemsing, the property owner and Hans Leitner, the designer and applicant, is requesting a Waiver to the Los Alamos County Code of Ordinances, Chapter 16, Development Code, Sections 16-537 and 16-272 (d) (7) to allow an encroachment into the required front yard setback in order to construct a carport. The property is located at 626 - 47th Street, Los Alamos, New Mexico, Subdivision: WESTERN AREA 1, Lot 112, and is zoned R-M (Residential Mixed District).

Property Owners

Willard Hemsing, Owner;

Applicant

Hans Leitner, Designer & Applicant

Case Manager

Anders Millmann, Senior Planner

Recommended Action

I move that the Board of Adjustment **approve** Case No. 16-BOA-002, a request for approval of a waiver from a required front yard setback requirement for the construction of a proposed 19' x 32' 4" carport, for the reasons stated in the staff report, reasons determined during the public hearing, and adoption of findings of fact, subject to the following conditions:

1. Compliance with all conditions identified in the IDRC meeting.
2. The carport shall be designed to shed snow which falls onto its roof entirely onto the subject's property, and not onto any adjacent right-of-way, including the sidewalk.
3. An easement for the existing water meter shall be delineated and recorded with Los Alamos County. Support columns for the proposed carport shall not encroach within this proposed easement.
4. The applicant shall apply for a "Building Permit" prior to construction of the new carport.

Motion Option 2:

I move that the Board of Adjustment **deny** Case No. 16-BOA-002 with the finding that it does not meet the Criteria of Section 16-157 for the following reason(s):

1. ...

CASE SUMMARY

The applicant is requesting a waiver to allow for the construction of a carport in a required front yard. The Los Alamos County Code of Ordinances, Chapter 16 (Development Code), Section 16-537 (Site Development Requirements, Single-Family Residential) establishes a minimum front yard setback in this district of twenty (20') feet, as measured from the front property line. Additionally, the Los Alamos County Code of Ordinances, Chapter 16 (Development Code), Section 16-272 (Yards), (d) "Projections into required yards; (7), permits a "carport, consisting of a roof that has no walls, or wholly or partially enclosed walls, except those that are part of the main structure, shall project no more than 40 percent of the distance into the required front yard setback."

Section 16-533 (4) of the Los Alamos Development Code, states that the Residential Mixed District (R-M) is intended to accommodate single-family and two-family dwellings and accessory structures and accessory structures and uses, and is further intended to maintain and protect a residential character of development.

The subject property is located on an interior curve radius of 47th Street. The parcel is irregularly shaped, with the street frontage being significantly longer than the length of the rear lot boundary. The parcel is occupied by a single family residence and an existing 2-car garage.

The existing residential dwelling unit is set back a distance of fifteen (15) feet two (2) inches from the front property line. This represents an encroachment of four (4) feet ten (10) inches into a required front yard setback area, or by approximately 24.2% of the specified setback. The residence was constructed prior to 1965. A Waiver for a six (6) foot encroachment into the required front yard setback area was approved in 1985 permitting the construction of a six (6) foot enclosed entryway at the front of the current residence by Mr. Hemsing (Case No. 85-V-38). The actual encroachment as measured by the applicant (Leitner) for this petition, was four (4) feet ten (10) inches.

The petitioner proposes to construct the carport up to (abutting) the front yard property line. Forty (40%) percent of twenty (20') feet is eight (8') feet. Since the proposed carport would be located eleven feet one and three-quarters inch (11' 1¾") in front of the front building line, and since a portion of the existing residence was constructed observing a fifteen (15) foot two (2) inch front yard setback, the proposed waiver, if approved, would permit a full 100% encroachment into a required front yard setback area to accommodate the construction of the proposed carport.

The proposed carport will measure approximately 19 feet in length, by 32 feet 4 inches in width, and contain approximately 614 Ft² under roof.

The carport is proposed to be constructed of wooden beams and a metal roof that will complement the materials present on the existing residence.

There is a water utility (meter) box and an external water spigot located in the front yard which may be impacted by the placement of a carport support column. There are no records of any easement containing this utility line or meter.

In addition to a two-car garage, there is an existing hard-surfaced parking area which can accommodate two standard-sized vehicles located in front of the residence. The proposed carport would be constructed directly over this paved parking area.

I. Waiver Review Criteria

Sec. 16-157: During the course of review of any waiver request, the board of adjustment shall base its decision on all the following criteria. The board of adjustment shall approve, approve with conditions and limitations, or deny the request depending on the extent to which the request meets or fails to meet these criteria:

(a) Granting of the waiver will not cause an intrusion into any utility or other easement unless approved by the owner of the easement, and

Applicant Response:

The proposed construction of the proposed carport will not intrude into any known or recorded easement.

The utility easement on the north property boundary is shown on my site plan.

The support columns are set back 4-feet from the sidewalk to provide sufficient clearance for County snow removal.

The County will, at a later date, determine the location of an easement for the existing Water Meter.

Staff Response:

The proposed accessory structure appears to not be sited over any utility or drainage easements. The existing water meter does not currently have an associated easement recorded with it. A Condition of Approval will be for an easement to be sited and recorded for this water meter.

(b) The waiver request is caused by a practical difficulty or hardship inherent in the lot or lot improvements and the difficulty or hardship has not been self-imposed, and

Applicant Response:

The irregular shape of my lot coupled with existing improvements (residence) dictates the location of the carport.

A carport must have street frontage for access by motor vehicles. There is no other location on the subject property suitable for the placement of a carport, to wit:

To the north, there is insufficient area to construct a carport. A large swath of land is encumbered by a utility easement, further precluding the construction of a carport in this area.

To the east is the rear yard. It is infeasible to construct a carport in the rear yard as it is inaccessible from the street.

To the south, there is insufficient area to construct a carport.

To the west is the only feasible area to construct a carport; however, the existing garage is set back only 8-feet behind the front yard setback line. Eight feet is insufficient space in which to construct a carport.

Staff Response:

The placement of the proposed carport is located entirely within the confines of the subject property, in an area currently covered by an impervious surface (driveway). To construct a carport in any other area on the property would both encroach onto utility easements and require a waiver for encroaching onto other required yard setbacks. Additionally, placement of the carport in a different location would require the excavation and unwanted removal of landscaping and mature vegetation.

(c) Granting of the waiver will not create a health or safety hazard or violate building code requirements, and

Applicant Response:

The construction of the proposed carport will be accomplished in accordance with all building code requirements.

The design of the roof of the proposed carport will direct snow sliding off onto my property and not onto the sidewalk or any other County right-of-way. All snowfall will be 100% retained on my property.

Staff Response:

No health or safety hazard or building code violation would be created by granting the requested waiver. As a Condition of Approval, the proposed carport shall be designed so as to shed snow in a manner where it will not fall onto the sidewalk (especially snow that falls onto the north-facing roof of

the proposed carport).

(d) Granting of the waiver will not create any significant negative physical impacts on property within 100 yards of the subject property such as reduced sight lines, loss of privacy, decreased security, increased noise, objectionable odors, intrusion of artificial light, the casting of unwanted shadows, or similar negative impacts.

Applicant Response:

The design of the proposed carport will not interfere with or reduce any sight visibility lines. Additionally, my property is not a corner lot.

A carport, by its inherent design, will not be occupied as a residence. Therefore, no loss of privacy will occur.

The proposed carport will not negatively impact security concerns for my residence or for other residences in the immediate vicinity.

The proposed carport will not increase noise or other levels in the neighborhood.

The proposed carport will be designed and built without exterior lighting; therefore no objectionable glare or shadows will fall onto adjacent properties.

Staff Response:

The placement of the carport should not create any significant negative physical impacts on property within 100 yards of the subject property. The request of waiver was properly and sufficiently noticed, and no comments or objections were received by Monday October 10, 2016.

FINDINGS OF FACT

1. This public hearing was announced by publication in the Los Alamos Daily Post, and property owner notices were mailed via first class mail to all owners of real property located within 100 yards of the subject property.
2. This and adjacent properties are residential and are Zoned R-M (Residential-Mixed District).
3. The subject property is located in the WESTERN AREA 1 Subdivision, Lot: 112, which contains 0.1898 acres, or 8,269 square feet of area. The existing residential structure and garage contain approximately 2,260 Ft² of area, yielding a lot coverage factor of 27.3%. The maximum lot coverage percentage permitted by Section 16-537 of the Los Alamos County Development Code is 40%.
4. The proposed carport will measure 19 feet in length and 32 feet 4 inches in width, thereby adding 614 Ft² of additional lot coverage to the subject property, bringing the lot coverage factor up to 34.8%.
5. Section 16-537 of the Los Alamos County Development Code requires a minimum front yard setback of 20 feet, a minimum rear yard setback of 20, and minimum side yard setbacks totaling 15 feet.
6. The existing residence on the subject property is set back fifteen (15) feet two (2) inches from the front property line; thereby projecting into the required front yard setback area by four (4) feet ten (10) inches, or by 24.2%). This encroachment has been approved by a Waiver previously granted by Los Alamos County.
7. Section 16-272 (d) (7) of the Los Alamos County Development Code permits carports, defined as consisting of a roof that has no walls, or wholly or partially enclosed walls, except those that are part of the main structure, to project no more than forty (40) percent of the distance into the required front yard setback. Within the R-M Zoning District, a carport would therefore be

permitted to project eight (8) feet into a required twenty (20) foot front yard setback.

8. Due to the unusual configuration of the lot, coupled with utility easement locations, the only practical location on the subject property for the construction of a carport is in the front yard, which faces west, immediately in front of the existing garage.
9. A significant portion of the proposed carport (296± Ft² or 48% of the structure) is to be located within the required front yard setback.
10. The design of the proposed carport will not affect current noise levels or lighting levels within the neighborhood.

REVIEW OF CRITERIA

Exhibit I Vicinity map/Aerial photo of the subject property

Exhibit II Map and list of property owners of record within 100 yards of subject property

Exhibit III Application and site survey

Exhibit IV Elevations for proposed carport structure

Exhibit V Interdepartmental Review Committee (IDRC) comments

Exhibit VI Photographs of subject property, Staff (6)