

March 12, 2015

RE: RDCC Proposed Revisions to Subchapter F, Carports/Garage Exemptions

Mayor, Mayor Pro-Tem, and City of Austin Council Members,

The Residential Design and Compatibility Commission (RDCC) has recently been presented with numerous instances of homes designed and built to circumvent the intent of the Subchapter F (i.e. McMansion) ordinance.

Background:

The McMansion ordinance, adopted in 2006 after intensive task force work, established two new measures for compatibility between single-family homes. These are the “tent” that controls the height of walls near property lines and the “bulk” or Floor Area Ratio (FAR) limits to the overall size of the home and its accessory structures.

The RDCC was established alongside the ordinance to give relief to designers when good designs ran into compliance issues with the ordinance. Lately we have seen several cases that request extra FAR to accommodate the infill of carports originally permitted as exempted areas. We are bringing this specific issue to your attention because we have determined that a code modification is needed as soon as possible to stop a builder practice that is impacting homeowners and undermining the Land Development Code.

Situation:

1. Homes are being designed, permitted and constructed with attached open carport structures that are exempt from being included in the calculation of Gross Floor Area. These plans claim the allowed 450 SF carport exemption for an open structure.
2. After the building receives its final inspection, a homeowner will decide to enclose the carport, creating a garage. This modification results in adding bulk to the building and the total Floor Area Ratio may now be exceeded in cases where the maximum allowable square footage has been consumed by the permitted design.
3. If the homeowner seeks a permit to enclose the carport it may be denied, or if work is done without a permit, code enforcement may cite the homeowner for the changes.
4. In several cases we have heard, the builder, knowing the floor area ratio has been consumed, has intentionally made circumvention of the code very convenient by sizing the front opening to exactly accommodate the installation of a double garage door. Some owners do not understand that the new home they have purchased is already maxed out per the code, and changes specifically enclosing exempted open carports, are not permitted.
5. The ordinance is designed to incentivize a 450 square foot detached garage so as not to add bulk to the home. Alternately, there is an exemption for up to 200 square feet of garage attached to the home, but since this adds bulk, it intentionally does not completely exempt a double attached garage, and the area greater than 200 square feet is counted in the total allowable FAR, again, to incentivize a detached garage.

6. Several of these cases have been brought to the RDCC by home owners seeking to increase the allowable FAR in order to permit a garage door they may have already installed.
7. The RDCC has denied each of these cases because they violate the intent of the ordinance and do not comport with RDCC's mission.
8. One such RDCC case was appealed to the former City Council; it was denied and the RDCC ruling upheld. Some cases have also been presented to the Board of Adjustment though they fail to meet the hardship criteria. Ultimately, if these requests are supported by the RDCC, BoA or the City Council, this will result in these owners being granted greater FAR rights than their neighbors might have. Also, these actions will encourage tacit circumvention of the code.

After several months of consideration, the RDCC unanimously feels that the best and most logical remedy, to maintain the intent of the FAR limits and to ensure the code is applied equally to all property owners, is to modify the Subchapter F ordinance as follows:

Recommendation:

1. Delete section 3.3.2 A.3.(i) and (ii) in its entirety:

"3. A parking area that is open on two or more sides, if:

- i. it does not have habitable space above it; and*
- ii. the open sides are clear and unobstructed for at least 80% of the area measured below the top of the wall plate to the finished floor of the carport."*

2. Section 3.3.2 C should be modified as follows to eliminate confusion:

C. "An applicant may receive a maximum 450 square foot exemption per site for this section 3.3.2."

We strongly urge your immediate consideration of this revision; please let us know if you have any questions.

Cordially,

William Burkhardt, AIA
Chair/Residential Design and Compatibility Commission

Karen McGraw AIA
Vice Chair/Residential Design and Compatibility Commission