



# City of San Antonio

## Legislation Details (With Text)

**File #:** 17-2684

**Type:** Zoning Case

**In control:** Board of Adjustment

**On agenda:** 4/17/2017

**Title:** A-17-089: A request by Steve Cevallos for a 5 foot variance from the 5 foot side setback to allow a carport on the side property line, located at 238 Astor Street. Staff recommends Denial with an Alternate Recommendation. (Council District 3)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Aerial Map, 2. Site plan A-17-089, 3. Plot Plan, 4. Photos

Date	Ver.	Action By	Action	Result
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**Case Number:** A-17-089

**Applicant:** Steve Cevallos

**Owner:** Steve and Mary P. Cevallos

**Council District:** 3

**Location:** 238 Astor Street

**Legal:** Lots 19, 20, 21, Block 10, NCB 1698

**Description:**

**Zoning:** "R-4 AHOD" Single-Family Residential Airport Hazard Overlay District

**Case Manager:** Oscar Aguilera, Planner

### Request

A request for a request for a 5 foot variance from the 5 foot side setback, per Section 35-516, to allow a carport to be on the side property line.

### Executive Summary

The subject property is located at 238 Astor Street. The subject property measures 75 feet in width and has alley access to a detached garage in the rear yard. The applicant was cited by Code Enforcement for construction of the carport without building permits in November of 2015. During that time, they pulled a curb cut permit for work in the public right of way but never addressed the carport. The carport is metal and built on or very near the side property line. The applicant is seeking a variance to allow the carport to remain as constructed. The carport meets the front setback. According to the applicant, the reason for the carport is due to health disability issues of family members. The homeowners have health issues, and have trouble walking. The carport has gutters that prevent the water drainage from going into neighboring properties, and the carport is made of metal. The width of the carport is 16 feet at the front, but exit stairs reduce the width by 4 feet at the side door.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“R-4 AHOD” Single-Family Residential Airport Hazard Overlay District	Single-Family Dwelling

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“R-4 AHOD” Single-Family Residential Airport Hazard Overlay District	Single-Family Dwelling
South	“R-4 AHOD” Single-Family Residential Airport Hazard Overlay District	Single-Family Dwelling
East	“R-4 AHOD” Single-Family Residential Airport Hazard Overlay District	Single-Family Dwelling
West	“R-4 AHOD” Single-Family Residential Airport Hazard Overlay District	Single-Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The property is within the boundaries of the Highlands Community Plan and designated as Low Density Residential in the future land use component of the plan. The subject property is located within the boundaries of the Highland Park Neighborhood Association. The Neighborhood Association was notified and asked to comment.

**Criteria for Review**

According to Section 35-482(e) of the UDC, in order for a variance to be granted, the applicant must demonstrate all of the following:

1. *The variance is not contrary to the public interest.*

The public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by minimum setbacks that help to establish uniform and safe development within the City of San Antonio. The proposed carport meets the front setback requirement. However, allowing the carport to remain on the property line leaves no room for long term maintenance. **Therefore, staff recommends that a 3 foot variance to allow for a two foot setback and room for maintenance of the carport.**

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*

A literal enforcement of the ordinance would require a five foot setback, reducing the carport width to seven feet at its narrowest point, not having reasonable accommodations for persons with disabilities. The applicant states that his wife, his mother and he are all disabled. **A modified variance of three feet however would preserve 14 feet in width.**

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be*

*done.*

The spirit of the ordinance is the intent and in this case the intent of the setback is to allow room for maintenance. The current construction on the side property line does not observe the spirit of the Code and should be modified. **A two foot setback would satisfy this intent. The spirit of the ordinance is observed in that the carport meets front setbacks, does not pose a fire risk, and will not drain water onto adjacent properties.**

*4. The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*

**The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the “R-4 AHOD” Single-Family Residential Airport Hazard Overlay District.**

*5. Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*

**Adjacent properties are unlikely to be negatively affected by the requested changes in that the proposed carport design consist of iron/aluminum and the carport will not drain water onto the adjacent properties. There are several properties within the community that include a carport on or near the side property line. The request would not be out of character of the district.**

*6. The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.*

**The plight of the owner of the property is the reasonable accommodations for the health issues. The inclement weather makes it difficult to get from the home into the vehicle due to slippery conditions and creates a health hazard when the applicant is trying to access his house from his vehicle safely. The plight of the owner is not merely financial in nature.**

### **Alternative to Applicant’s Request**

The applicant would have to comply with the side setback.

### **Staff Recommendation**

Staff recommends **Denial with an alternative recommendation for a 3 foot variance to allow the carport 2 foot from the side property line for A-17-089** based on the following findings of fact:

1. The carport will not present a fire risk to adjacent properties, nor will it drain water onto adjacent properties.
2. Several other homes on the block enjoy front yard carports.