



# City of San Antonio

## Legislation Details (With Text)

**File #:** 15-3908  
**Type:** Staff Briefing - Without Ordinance  
**In control:** Board of Adjustment

**On agenda:** 7/6/2015

**Title:** A-15-100: CONTINUANCE. A request by Juan Soledad for 1) a five foot variance from the ten foot front setback requirement to allow a carport to remain five feet from the front property line and 2) a request for the elimination of the five foot side setback to allow a carport to remain on the side property line, located at 8318 Terra Ferna. (Council District 6)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** A-15-100  
**Applicant:** Juan Soledad  
**Owner:** Veronica Soledad  
**Council District:** 6  
**Location:** 8318 Terra Ferna  
**Legal Description:** Lot 17, Block 32, NCB 18820  
**Zoning:** "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District  
**Prepared By:** Logan Sparrow, Senior Planner

### Request

A request for 1) a five foot variance from the ten foot front setback, as described in Section 35-310.01, to allow an existing carport to remain five feet from the front property line and 2) a request for the elimination of the five foot side yard setback, also described in Section 35-310.01, to allow an existing carport to remain on the side property line.

### Executive Summary

The subject property is located at 8318 Terra Ferna approximately 250 feet north of Reed Road. The applicant constructed a large carport with an eave overhang and gutters and is located on the side property line. As the carport is attached to the dwelling, it also has to comply with the ten foot front building setback line and the five foot side yard setback line, both triggered by the "R-6" Residential Single-Family base zoning district. Two variances are requested to keep the carport as constructed. If approved, the applicant would still need to submit plans for a residential inspection to determine how best to fire rate the structure.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
South	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
East	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
West	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The property is within the boundaries of the West/Southwest Sector Plan and currently designated Suburban Tier in the future land use component of the plan. The subject property is not located within the boundaries of any registered neighborhood association.

**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, these criteria are represented by setback requirements to reduce the threat of fire and to provide equal access to air and light. Staff finds that having a wooden structure on the side property line does create conditions by which fire could more rapidly spread to adjacent structures. Because of the request seeks an elimination of the side yard setback and because the carport is largely of wooden construction, staff finds that the request to reduce the side setback is contrary to the public interest because of the increased fire risk. Also, the elimination of the side yard setback increases the likelihood of trespass onto adjacent property. While visiting the site to take pictures, staff witnessed that the applicant is forced to cut through the neighbor’s front yard to take trash to the curb. If approved, the applicant would still need to submit plans for a residential inspection to determine how best to fire rate the structure.

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

Staff is unable to determine any special conditions present on the subject property to grant variances to the front or side setback requirements. Had the applicant applied for a building permit, the setback issued could have been addressed prior to the construction of the carport. Staff found only two other carports in the neighborhood, both of which meet the setback regulations. Requiring that the applicant meet the side and front setbacks may result in some cars not being covered, but the collection of classic cars is not a special condition that warrants the elimination or relaxation of setback requirements.

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

Granting the requested side setback variance would not result in substantial justice. As a result of its wood construction, the structure poses an increased risk of fire to adjacent properties. Also, the applicant currently trespasses through adjacent property to take out the trash. Staff finds that the variance request will not result in substantial justice.

As there are no other carports so close to the front property line, staff finds that granting the requested variance will not result in substantial justice as the existing carport is out of place within the community.

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-6 AHOD” Residential Single-Family 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.*

The carport, as it exists, detracts from the essential character of the district in which it is located. Homes within this community have two car garages and, as such, carports are rare. Staff did identify two other carports in the neighborhood, but both were designed to meet the required setbacks. In addition to the large carport, the applicant poured a large section of additional concrete for parking. Both designs are out of character within the community.

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.*

Staff is unable to determine any unique circumstance present on the subject property to warrant the elimination of the side yard setback and much of the front setback. The variances are requested because the carport was built without a building permit. As such, the plight of the owner was caused by the owner of the property.

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

The applicant could remove three feet from the side of the carport to establish a three foot setback. This distance will permit the applicant to avoid trespass into adjacent, conforming property as well as provide additional space for fire risk.

### **Staff Recommendation**

Staff recommends **DENIAL of the requested variances in A-15-068** based on the following findings of fact:

1. The existing carport compromises fair and equal access to air and light and poses an increased fire risk.
2. The existing carport requires trespass for maintenance.
3. The carport is the only one in the neighborhood in violation of the setbacks and is out of character within the community

**Attachments**

Attachment 1 - Notification Plan (Aerial Map)

Attachment 2 - Plot Plan (Aerial Map)

Attachment 3 - Site Plan

Attachment 4 - Site Photos