



# City of San Antonio

## Legislation Details (With Text)

**File #:** 16-3284  
**Type:** Staff Briefing - Without Ordinance  
**In control:** Board of Adjustment

**On agenda:** 5/23/2016

**Title:** A-16-080: A request by Pedro Tapia for 1) a three and a half foot variance from the required five foot side yard setback to allow an existing carport to remain one and a half feet from the side property line and 2) a five foot variance from the required ten foot front setback to allow an attached carport to remain five feet from the front property line, located at 3923 W Salinas. (Council District 5)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A-16-080 Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** A-16-080  
**Applicant:** Pedro Tapia  
**Owner:** Pedro Tapia  
**Council District:** 5  
**Location:** 3923 W Salinas  
**Legal Description:** Lot West 15 FT of 12, the East 18 FT of 13, and the South 80 FT of the West 32 FT of 13, Block 60, NCB 3658  
**Zoning:** "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District  
**Case Manager:** Kristin Flores, Planner

### Request

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

### Executive Summary

The applicant currently resides in the Lakeview Townsite Community which was recorded in 1909. Since 1909, the subject property has been subdivided but not re-platted. The current carport was built in 2009 along the east property line which is approximately 160 feet in length. The applicant was cited by code in 2009 for building without a permit and for building a carport that encroaches into the front and side setbacks. The applicant presented the carport encroachment case to the Board of Adjustment on June 15, 2009 in an effort to keep the carport in the current originally constructed location. The Board of Adjustment denied the applicant's request. The applicant has recently trimmed approximately five (5) of the front of the carport leaving the carport in

noncompliance with the side and front setbacks for the past seven (7) years. During this time, code compliance has continued to fine the applicant and has taken the applicant to municipal court for failing to comply with development standards. The applicant is before the Board of Adjustment again today to keep the carport in the current location encroaching into the front and side setback.

**Subject Property Zoning/Land Use**

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

**Surrounding Zoning/Land Use**

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

**Comprehensive Plan Consistency/Neighborhood Association**

The property is not within the boundaries of a Community or Sector Plan and does not have a future land use designation. The subject property is within the Prospect Hill Neighborhood Association. As such, the neighborhood association was notified and asked to comment.

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 setbacks that help to ensure that we have uniform, safe development within the City of San Antonio. A carport one and a half feet from the neighboring property is contrary to the public interest as it increases fire risk and water runoff to adjacent property. Additionally, the carport encroaches into the front setback along a portion of the subject property which is approximately 160 in length. This substantial length provides the space for the applicant to meet the front setback and provide adequate coverage for cars parked on the subject property.

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

Staff was unable to find a special condition in this case that would require the applicant to encroach into the side and front setbacks. In fact, the substantial length of the east property line, along which the carport was constructed, provides adequate room for the applicant to build a carport that respects the current setbacks.

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

Granting the variance will not result in substantial justice as there is adequate room for the applicant to meet the

front setback. There is also not a property related hardship that requires the applicant to build so closely to the side property line thus increasing water runoff and fire risk for the adjacent property.

*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” 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.*

A carport built so closely to the side setback is likely to increase water runoff and increase fire risk to the adjacent property. While the adjacent primary structure is currently located several feet from the side property line the owner would be permitted to expand the primary structure as close as five (5) feet from the side property line which would leave less the 7 feet between adjacent structures.

*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 was unable to find a unique circumstance which would require the applicant to locate the carport one and a half (1.5) feet from the side property line and five (5) front property line. The applicant has substantial space along the east property line to provide coverage for car without encroaching into the front setback. Additionally, locating a carport one and a half (1.5) feet from the side property line unnecessarily increases fire risk and water runoff and does not leave any space for maintenance of the structure without trespass.

**Alternative to Applicant’s Request**

The applicant could build a carport that meets the required front setbacks and is located three feet from the side setback.

**Staff Recommendation**

Staff recommends **DENIAL of variance request in A-16-808** based on the following findings of fact:

1. There is not a special condition or property related hardship in this case. 2. The applicant has substantial space to provide coverage of his cars without encroaching into the front setback. 3. Having a carport so close to the side property line will unnecessarily increase water runoff and fire spread and will not leave room for maintenance without trespass.