



# City of San Antonio

## Legislation Details (With Text)

**File #:** 16-5606

**Type:** Zoning Case

**In control:** Board of Adjustment

**On agenda:** 11/7/2016

**Title:** A-16-178: A request by Jose Tovar for 1) a 25 foot variance from the 25 foot platted front setback and 2) a five foot variance from the minimum five foot side setback to allow a carport to be on the front and side property line, located at 315 Nassau Drive. Staff recommends Denial with an Alternate Recommendation. (Council District 1)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A-16-178 Photos, 2. A-16-178 Site Plan, 3. BOA16-178 Notification Plan, 4. BOA16-178 Plot Plan

Date	Ver.	Action By	Action	Result
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**Case Number:** A-16-178

**Applicant:** Jose Tovar

**Owner:** Jose and Silvia Tovar

**Council District:** 1

**Location:** 315 Nassau Drive

**Legal:** Lot 13, Block 25, NCB 9747

**Description:**

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

**Case Manager:** Shepard Beamon, Senior Planner

A request for 1) a 25 foot variance from the 25 foot platted front setback, as described in Section 35-516 (a), to allow a carport to be located on the front property line and 2) a five foot variance from the minimum five foot side setback, as described in Section 35-310.01, to allow a carport to be on the side property line.

### Executive Summary

The subject property is located in the Wonder Home Addition subdivision, which was platted in 1950 and includes a 25 foot platted front setback. The applicant recently had a carport built without obtaining a permit and was cited by code enforcement. The carport is made of metal, has gutters to direct water runoff towards the street, and was constructed on both the side and front property line. The Board recently approved the same request for a similar carport on the same street at 331 Nassau.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
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“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
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**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 within the boundaries of the Greater Dellview Area Plan and has a future land use designation of Low Density Residential. The subject property is within the Dellview Area 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 built on both the front and side property lines is contrary to the public interest as it does not establish uniformity and conflicts with the overall appearance of the surrounding properties.

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

Staff was unable to find a special condition that would require the applicant to eliminate the front setback. The applicant could construct a carport that meets the side setback minimum requirement and is not directly on the front property line.

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 not a property related hardship that requires the applicant to build on the front and side property line.

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.*

As there are some existing carports in the neighborhood, most of them meet the UDC side setback and provide

a setback from the property line. The carport in question does not meet the setback requirements, thus altering the appearance of the neighborhood.

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 or property related hardships which would require the applicant to locate the carport on both the side and front property lines.

**Alternative to Applicant’s Request**

The applicant could amend the plat or;  
The applicant could remove the carport.

**Staff Recommendation**

Staff recommends **DENIAL of variance request for the elimination of the five foot side setback in A-16-178** based on the following findings of fact:

1. There is not a special condition or property related hardship in this case; 2. The carport detracts from the character and uniformity of the district; 3. The applicant could construct the carport to have adequate space to respect the side setback minimum requirement and park two vehicles.

Staff recommends **APPROVAL of the alternate recommendation of a 20 foot variance from the 25 foot platted front setback to allow a carport to be five feet from the front property line** based on the following findings of fact:

1. Approval of the alternate recommendation will still allow the owner to have a carport 20 feet in depth and provide adequate coverage for their vehicles.