



# City of San Antonio

## Agenda Memorandum

**File Number:** 17-1263

**Agenda Item Number:** 11.

**Agenda Date:** 2/6/2017

**In Control:** Board of Adjustment

**Case Number:** A-17-047  
**Applicant:** Carlos Gomez  
**Owner:** Carlos Gomez  
**Council District:** 2  
**Location:** 1739 Dawson Street  
**Legal:** Lots 19 and 20, Block 9, NCB 1364  
**Description:**  
**Zoning:** “MF-33 EP-1 AHOD” Multi-Family Facility Parking/Traffic Control Airport Hazard Overlay District  
**Case Manager:** Shepard Beamon, Senior Planner

### Request

A request for a five (5) foot variance from the five (5) foot side setback, as described in Section 35-510.01, to allow an accessory structure on the side property line.

### Executive Summary

The subject property is currently located at the intersection of Dawson Street and North Gevers Street. The applicant has constructed a metal accessory structure on both the side and rear property lines. Since there is an alley in the rear of the property, up to half of the alley can be used towards to the rear setback of the subject property. Therefore, the structure does not need a variance from the rear setback.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“MF-33 EP-1 AHOD” Multi-Family Facility Parking/Traffic Control Airport Hazard Overlay District	Single-Family Dwelling

### Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
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North	“MF-33 EP-1 AHOD” Multi-Family Facility Parking/Traffic Control Airport Hazard Overlay District	Single-Family Dwellings
South	“R-4 EP-1 AHOD” Residential Single-Family Facility Parking/Traffic Control Airport Hazard Overlay District	Single-Family Dwellings
East	“MF-33 EP-1 AHOD” Multi-Family Facility Parking/Traffic Control Airport Hazard Overlay District	Single-Family Dwellings
West	“MF-33 EP-1 AHOD” Multi-Family Facility Parking/Traffic Control Airport Hazard Overlay District	Single-Family Dwellings

**Comprehensive Plan Consistency/Neighborhood Association**

The property is within the boundaries of the Arena District Community Plan and currently designated Medium Density Residential in the future land use component of the plan. The subject property is located within the Harvard Place-Eastlawn Neighborhood Association, who was 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 the front setback to ensure the safety for adjacent property owners. The location of the carport does not allow for maintenance without trespass along the side and would produce water runoff on the adjacent property.
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*  
There are no unnecessary hardships that result from the enforcement of the ordinance. The owner could construct the carport to meet the side setback and also have adequate parking for multiple vehicles.
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*  
The intent of setbacks is to create an open street view and establish uniform development standards and to protect the rights of property owners. By meeting the side setback, substantial justice will be done as the owner would have adequate coverage for vehicles and the rights of the neighboring property will not be injured.
4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the district in which the request for a variance is located.*  
The variance will not authorize the operation of a use other than those uses specifically authorized in the “MF-33 EP-1 AHOD” Multi-Family Facility Parking/Traffic Control 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 the home is located on a corner lot, the carport is highly visible from both streets and does alter the character of the district. Further, the carport cannot be maintained without trespass and would produce water runoff on the adjacent property.

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 could identify no unique circumstance existing on the property that would warrant the granting of the variance.

**Alternative to Applicant's Request**

The owner would be required to remove five feet of structure to meet the side setback.

**Staff Recommendation**

Staff recommends **DENIAL of the requested variance in A-17-047** based on the following findings of fact:

1. The structure cannot be maintained without trespass;
2. The structure detracts from the essential character of the district;
3. There is no property related hardship;
4. The structure could produce water runoff on the adjacent property.