



# City of San Antonio

## Agenda Memorandum

**File Number:** 18-3664

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**Agenda Item Number:** 7.

**Agenda Date:** 6/4/2018

**In Control:** Board of Adjustment

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**Case Number:** A-18-085

**Applicant:** Rodolfo Vaglient

**Owner:** Rodolfo Vaglient

**Council District:** 1

**Location:** 1702 Michigan Avenue

**Legal:** Lot South 48.33 Feet of Lots 20-23, Block 11, NCB 3112

**Description:**

**Zoning:** "R-4 NCD-5 AHOD" Residential Single-Family Beacon Hill  
Neighborhood Conservation Airport Hazard Overlay District

**Case Manager:** Dominic Silva, Planner

### **Request**

A request for 1) a 7'5" variance from the 10' reverse corner setback, as described in Section 35-310.01, to allow a carport to be located 2'5" away from the property line and 2) a variance from the Beacon Hill Neighborhood Conservation District design requirement that an accessory structure must match the primary structure building materials.

### **Executive Summary**

The subject property is located at 1702 Michigan Avenue, approximately 314' south of West Hildebrand Avenue. Code Enforcement initiated this case on August 16<sup>th</sup>, 2017 due to work done without a permit and setback violations. On March 23, 2018, the owner attempted to process a permit application; however, a permit was not issued due to failing to follow the Beacon Hill Neighborhood Conservation District design guidelines, and setback violations.

The applicant is requesting to keep the carport built without permits within the reverse corner front setback. The carport is attached to an existing garage as an extension of the roof overhang. Because space is limited, any vehicles parked underneath the carport will be partially within the city right-of-way.

**Subject Property Zoning/Land Use**

<b>Existing Zoning</b>	<b>Existing Use</b>
“R-4 NCD-5 AHOD” Residential Single-Family Beacon Hill Neighborhood Conservation Airport Hazard Overlay District	Single-Family Dwelling

**Surrounding Zoning/Land Use**

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“R-4 NCD-5 AHOD” Residential Single-Family Beacon Hill Neighborhood Conservation Airport Hazard Overlay District	Single-Family Dwelling
South	“R-6 NCD-5 AHOD” Residential Single-Family Beacon Hill Neighborhood Conservation Airport Hazard Overlay District	Single-Family Dwelling
East	“R-6 NCD-5 AHOD” Residential Single-Family Beacon Hill Neighborhood Conservation Airport Hazard Overlay District	Single-Family Dwelling
West	“R-4 NCD-5 AHOD” Residential Single-Family Beacon Hill Neighborhood Conservation Airport Hazard Overlay District	Single-Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The property is within the boundaries of the Midtown Neighborhood Plan and is currently designated Low Density Residential in the future land use component of the plan. The subject property is located within the Beacon Hill Neighborhood Association. As such, they were 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 variances

are contrary to the public interest as the carport only protects the vehicles parked at the garage entrance half way, leaving the vehicles largely unprotected. Further, those vehicles will be within the city right-of-way. There is also space between the detached garage and the side property that is able to be developed.

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

Staff cannot find any special conditions that, if enforced literally, would result in any unnecessary hardship. Staff is also unable to find any property-related special condition that allows for a carport overhang from the detached garage and encroachment upon city right-of-way. As designed, the carport is built to only minimally protect the vehicles parked underneath. If a permit was sought, staff could have advised on other approaches to achieve a more efficient result.

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 of the code, rather than the strict letter of the law. The intent of the setback limitation is to prevent fire spread, allow adequate space for maintenance, and encourage proper storm water drainage. The carport as built follows none of the standards and encroaches upon the city right-of-way.

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 “R-4 NCD-5 AHOD” Residential Single-Family Beacon Hill Neighborhood Conservation 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 is noticeably out of character within this community. As it goes against the Neighborhood Conservation District design guidelines, there are no other carports of similar design or placement within the immediate vicinity. Staff finds the carport detracts from the essential 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.*

Staff did not find any unique circumstances that warrant the granting of the requested variances. Had the applicant have applied for a permit, staff could have assisted with an alternative design that benefits the applicant and the community.

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

Denial of the variance request would result in the owner having to meet the required setbacks and adhere to Section 35-310.01 and adhere to the Neighborhood Conservation District design requirements.

## **Staff Recommendation**

Staff recommends **DENIAL** of the 7'5" variance from the 10' reverse corner setback and the variance from the Neighborhood Conservation District design requirements in **A-18-085**, based on the following findings of fact:

1. There are no special conditions present to warrant the granting of the requested variance for the carport, and;
2. Due to the limited space, any cars parked underneath the carport will be within the city right-of-way.