



# City of San Antonio

## Legislation Details (With Text)

**File #:** 15-3425

**Type:** Staff Briefing - Without Ordinance

**In control:** Board of Adjustment

**On agenda:** 6/1/2015

**Title:** A-15-090: The request of Elizabeth Peralez for the elimination of the required five foot side yard setback to allow a carport on the property line, located at 375 Doolittle. (Council District 4)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** A-15-090

**Applicant:** Elizabeth Peralez

**Owner:** Elizabeth Peralez

**Council District:** 4

**Location:** 375 Doolittle

**Legal Description:** Lot 60, Block 3, NCB 11215

**Zoning:** "R-6 MAOZ AHOD" Residential Single-Family Military Airport  
Overlay Airport Hazard Overlay District

**Prepared By:** Logan Sparrow, Planner

### Request

A request for the elimination of the required five foot side yard setback, as described in Section 35-310.01, to allow a carport on the property line.

### Executive Summary

The subject property is located at 375 Doolittle northeast of its intersection with Kreuger Street. The applicant constructed a metal carport, with posts along the side property line, without a building permit. The metal construction is unlikely to pose a fire threat to adjacent properties as a result of its metal construction. The applicant is seeking a variance to keep the carport in its current location.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-6 MAOZ AHOD" Residential Single-Family Military Airport Overlay 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	“C-2 MAOZ AHOD” Residential Single-Family Airport Hazard Overlay District	Vacant
South	“R-6 MAOZ AHOD” Residential Single-Family Military Airport Overlay Airport Hazard Overlay District	Single-Family Dwelling
East	“R-6 MAOZ AHOD” Residential Single-Family Military Airport Overlay Airport Hazard Overlay District	Single-Family Dwelling
West	“R-6 MAOZ AHOD” Residential Single-Family Military Airport Overlay Airport Hazard Overlay District	Vacant

### **Comprehensive Plan Consistency/Neighborhood Association**

The property is within the boundaries of the West/Southwest Sector 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. The structure currently in place poses little fire threat as a result of its metal construction. However, as the adjacent property has a home only three feet from the side property line, staff finds that permitting a large, metal carport along the property line pose a number of adverse affects to this adjacent property including compromised access to air and light, and a crowded feel for the adjacent property owner. These are contrary to the interests of the public.

*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 side setback requirement. A reduction of the side setback would be more reasonable than the elimination of it, entirely. Had the applicant applied for a building permit, the setback violation would have been addressed and plans altered to account for it. Not obtaining a building permit does not constitute a special condition and a literal enforcement of the ordinance would mandate that the structure be relocated, not eliminated. This would not result in a substantial hardship.

*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. Because it is located along the property line adjacent to a home with a three foot setback, the crowding effect, and the compromise to air and light for the adjacent property, would conflict with substantial justice.

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 MAOZ AHOD” Residential Single-Family Military Airport Overlay 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.*

Is it likely that granting the requested variance will harm adjacent properties as the request eliminates the whole side setback that is established to protect them. Property owners should expect to enjoy their property, not to have encroachment from neighboring development negatively influence fair and equal access to air and light.

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. The variance is requested as 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 of the carport to allow additional spacing between structures for the benefit of adjacent property. Staff would recommend approval of a reduced setback so that neighboring properties have equal access to air and light.

### **Staff Recommendation**

Staff recommends **DENIAL of A-15-090** based on the following findings of fact:

1. The existing carport compromises fair and equal access to air and light.

### **Attachments**

Attachment 1 - Notification Plan (Aerial Map)

Attachment 2 - Plot Plan (Aerial Map)

Attachment 3 - Site Plan

Attachment 4 - Site Photos