



# City of San Antonio

## Legislation Details (With Text)

**File #:** 15-4123

**Type:** Staff Briefing - Without Ordinance

**In control:** Board of Adjustment

**On agenda:** 7/20/2015

**Title:** A-15-120: A request by Serafin Gutierrez for 1) the elimination of the side setback to allow a carport to remain along the side property line; 2) a 5 foot variance from the maximum 10 foot height to allow the carport 15 feet in height; 3) a variance from the requirement that the carport match the primary structure in scale and proportion and 4) a 4 foot variance from the minimum 10 foot separation between two adjacent residential structures to allow the carport 6 feet from the neighboring home, located at 2431 W. Mistletoe. (Council District 7)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A-15-120 legis

Date	Ver.	Action By	Action	Result
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**Case Number:** A-15-120

**Applicant:** Serafin Gutierrez

**Owner:** Serafin Gutierrez

**Council District:** 7

**Location:** 2431 W. Mistletoe

**Legal Description:** Lot 11, Block 9, NCB 9108

**Zoning:** "R-6 NCD-7 AHOD" Residential Single-Family Jefferson  
Neighborhood Conservation Airport Hazard Overlay District

**Case Manager:** Margaret Pahl AICP, Senior Planner

### Request

A request for 1) the elimination of the side setback, as described in Table 35-310-1, to allow a carport to remain along the side property line; 2) a 5 foot variance from the maximum 10 foot height, as described in the Jefferson Neighborhood Conservation District (NCD) design standards to allow the carport 15 feet in height; 3) a variance from the NCD design requirement that the carport match the primary structure in scale and proportion and 4) a 4 foot variance from the minimum 10 foot separation between two adjacent residential structures, required by the NCD design standards, to allow the carport 6 feet from the neighboring home.

### Executive Summary

The subject property is located in the Jefferson Neighborhood Conservation District (NCD). The design overlay district was created in April 2009 with almost 98% of the structures within its boundary over 25 years old. These design districts were created by the City as a regulatory tool to help preserve the existing character of older, established neighborhoods. According to its Executive Summary, *the design standards found in this*

*plan are not intended to enforce architectural style, but rather to perpetuate historical arrangements of buildings, celebrate and prevent concealment of the original character of buildings, de-emphasize and conceal spaces designed for the automobile, increase the number and quality of spaces designed for interaction between neighbors and improve the visual appeal of the entire area.*

The applicant began construction of a wooden carport over the driveway in front of the home without a building permit and was cited by Code Enforcement. As noted by the number of requested variances, the carport is inconsistent with both the standard side setback and the design parameters of the NCD. The standard 5 foot side setback, and the minimum spacing between buildings are required to provide fire separation and allow room for maintenance without trespass. If these variances are granted, the applicant will be required to address fire separation construction requirements. The requested variances from the NCD standards to allow a taller, wider carport that dominates the scale of the smaller home are in direct conflict with the goals as described above. The carport is so wide it extends across the front façade approximately 8 feet and covers two front windows. The roof is taller than the house. According to the applicant, the height is needed to allow his trailer to pass under the carport for rear yard storage.

### **Subject Property Zoning/Land Use**

<b>Existing Zoning</b>	<b>Existing Use</b>
“R-6 NCD-7 AHOD” Residential Single-Family Jefferson 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-6 NCD-7 AHOD” Residential Single-Family Jefferson Neighborhood Conservation Airport Hazard Overlay District	Single-Family Dwelling
South	“R-6 NCD-7 AHOD” Residential Single-Family Jefferson Neighborhood Conservation Airport Hazard Overlay District	Single-Family Dwelling
East	“R-6 NCD-7 AHOD” Residential Single-Family Jefferson Neighborhood Conservation Airport Hazard Overlay District	Single-Family Dwelling
West	“R-6 NCD-7 AHOD” Residential Single-Family Jefferson Neighborhood Conservation Airport Hazard Overlay District	Single-Family Dwelling

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

The property is within the boundaries of the Near Northwest Community Plan and currently designated as Urban Low Density Residential in the future land use component of the plan. The subject property is located within the boundaries of both the Jefferson & Woodlawn Lake registered neighborhood associations. As such, both were notified and asked for 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 both the minimum side setbacks/building separation, as well as the neighborhood design standards. The minimum setbacks are in place to protect the neighbor from fire hazard. There are mitigation measures that can be employed to reduce the potential for fire spreading to adjacent structures.

The design standards are not as easily mitigated. The carport width could be reduced to reflect the maximum driveway width of 12 feet and the roofline could be shortened to reduce the dominating impact it has on the house. However, if the height were reduced, the trailer may not fit. Therefore, allowing the carport as proposed is contrary to the public interest.

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

The circumstance present on the subject property, and most other properties built in this time period, is that the width and placement of the driveway is generally along the side property line. Allowing a reduced side setback within neighborhoods of this age sometimes warrants consideration. In this case however, there are very few similar carports in this area.

The design standards are not unique, but were imposed on over 1,400 homes. These standards were established during a detailed review of existing characteristics shared among these homes. The variances would allow the carport to dominate the view of the home from the public way, in direct conflict with the intent of the NCD.

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

The variance process was created to address those uniquely shaped parcels for which the minimum standards are particularly challenging. Many carports built over driveways cannot accommodate a 5 foot setback. A reduced setback sometimes can be provided, which allows vehicle coverage and room for maintenance without trespass.

The spirit of the ordinance is observed by bringing the proposed design of the carport as close as possible to those standards described as important by the NCD. In this district, carport height is limited to 10 feet. The materials and scale are required to match the primary home. While it is not required to be setback behind the home, it is supposed to be secondary and not detract from it. These requirements are inconsistent with the design built by the applicant.

*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 NCD-7 AHOD” Residential Single-Family Jefferson Neighborhood Conservation District 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.*

Contrary to other neighborhoods, this neighborhood has very few carports. There are no other carports on this block. This structure will completely change the appearance of this home and alter the character and the purpose of the NCD.

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.*

The property has no unique characteristics. The applicant began construction of a carport prior to obtaining a building permit and was issued a stop work order. The design requirements for carports are applied to each of the 1,400 homes within this overlay district.

### **Alternative to Applicant's Request**

The applicant must reduce the width and height of the proposed carport and match the materials and scale of the primary home.

### **Staff Recommendation**

Staff recommends **DENIAL of A-15-120** based on the following findings of fact:

1. The carport is constructed of wood and located on the side property line; and 2. The carport is inconsistent with the design regulations of the Jefferson Neighborhood Conservation District.
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