



# City of San Antonio

## Legislation Details (With Text)

**File #:** 16-1071

**Type:** Staff Briefing - Without Ordinance

**In control:** Board of Adjustment

**On agenda:** 1/11/2016

**Title:** A-16-027: A request by John Ochoa for 1) a 4 foot variance from the minimum 5 foot side yard setback to allow a carport 1 foot from the property line and 2) a 7 foot variance from the minimum 10 foot front setback to allow a detached carport 3 feet from the front property line located at 1903 San Fernando Street. (Council District 5)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:**

| Date | Ver. | Action By | Action | Result |
|------|------|-----------|--------|--------|
|------|------|-----------|--------|--------|

**Case Number:** A-16-027

**Applicant:** John Ochoa

**Owner:** John Ochoa

**Council District:** 5

**Location:** 1903 San Fernando

**Legal Description:** Lot 12, Block 6, NCB 2401

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

**Case Manager:** Logan Sparrow, Senior Planner

### Request

A request for 1) a two foot variance from the minimum three foot side setback to allow a carport one foot from the side property line and 2) a seven foot variance from the minimum ten foot front setback, both as described in Table 35-310-1 to allow a carport three feet from the front property line.

### Executive Summary

The applicant has started construction of a large, detached carport in the front yard of the corner-lot property. The applicant was cited by Code Enforcement for construction within the front and side setbacks and for building without a permit. Currently, the carport covers much of the front yard of the property and is intended to provide shade and protection from the elements for several vehicles. Because the structure is detached from the dwelling and has no eave overhang the carport may be allowed to be three feet from the side property line. The applicant is seeking two variances to allow the carport to remain.

### Subject Property Zoning/Land Use

| Existing Zoning | Existing Use |
|-----------------|--------------|
|-----------------|--------------|

|  |                        |
|--|------------------------|
| "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District | Single-Family Dwelling |
|--|------------------------|

### **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       | UZROW  | San Fernando Street    |
| East        | UZROW  | S Sabinas Street       |
| 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 Guadalupe/Westside Neighborhood Plan and currently designated Low Density Residential in the future land use component of the plan. The subject property is located within the boundaries of the Avenida Guadalupe 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 minimum setbacks to ensure protection from fire and from water drainage, as well as to provide fair and equal access to air and light. The large carport is constructed of metal and wood and does create a fire risk. If approved, the structure will be required to be fire-rated. Additionally, because the carport is so near the property line it is possible that water could drain onto adjacent properties during rain events. Because of this, staff finds that the carport, as constructed, is contrary to the public interest.

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

Staff is unable to determine any special condition present to warrant eliminating 67 percent of the side setback and 70 percent of the front setback. The existing development creates fire threats and could result in rainwater runoff to adjacent properties. The applicant should remove two feet of the carport, placing the structure three feet from the side property line. The carport is currently deep enough to park a full-size truck with an extra fifteen-plus feet of depth. Staff finds that the carport could be reduced in depth to respect the ten foot front setback and still meet the applicant's need for protected parking.

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

Granting the requested variance will not result in substantial justice as no special condition is present to grant the requested variance. With minor modifications, adjacent properties will be protected while still meeting the applicant's needs.

*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.*

Staff finds that the existing carport design creates a massing effect that places the structure noticeably out of character with surrounding properties. Additionally, the existing design introduces fire threat and could drain water onto adjacent properties. As such, staff finds that the existing design could substantially injure 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 was unable to find a unique circumstance present in this case to qualify the property to be granted the requested variances.

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

The applicant should remove two feet from the side of the carport and seven feet from the front of the carport to comply with the Unified Development Code. This design would still meet the applicant’s need for additional parking.

### **Staff Recommendation**

Staff recommends **DENIAL of both variance requests in A-16-027** based on the following findings of fact:

1. Staff was unable to find a unique circumstance that justified the requested variances.
2. The existing structure could injure the adjacent properties.