



# City of San Antonio

## Legislation Details (With Text)

**File #:** 16-3291

**Type:** Staff Briefing - Without Ordinance

**In control:** Board of Adjustment

**On agenda:** 5/23/2016

**Title:** A-16-085: A request by Florencia Torres for the elimination of the required five foot side yard setback to allow a carport to remain on the side property line, located at 239 Ray Street. (Council District 5)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A-16-085 Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** A-16-085

**Applicant:** Florencia Torres

**Owner:** Florencia Torres

**Council District:** 5

**Location:** 239 Ray Street

**Legal Description:** Lots 120 and 121, NCB 6182

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

**Case Manager:** Kristin Flores, 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 to remain on the side property line.

### Executive Summary

The applicant currently resides in the Southholme Subdivision which was platted in 1913. The applicant hired a contractor to build a carport, but he did not acquire the proper permits for construction. The applicant was cited for building without a permit. The applicant is now asking for a variance to allow her to keep the carport in the currently location; encroaching into the side property line.

### 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**

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
South	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
East	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
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 Nogalitos/South Zarzamora Community Plan and currently designated as Low Density Residential in the future land use component of the plan. The subject property is within the Collins Garden 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 setbacks that help to ensure that we have uniform, safe development within the City of San Antonio. The carport, as currently built, is likely to increase water runoff and increase risk of fire spread to adjacent property. Additionally, there is not room for maintenance of the structure without trespass. Staff finds that allowing the carport to be located on the side property line is contrary to the public interest.

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

Staff was not able to find a special condition that would require the side yard setback to be eliminated. The applicant could design a carport to meet a three foot side yard setback.

*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 the proposed carport will increase the risk of fire spread and water runoff to adjacent properties.

*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.*

If a carport is built on the property line there will be an increase in the water runoff and an increased risk of fire spread to adjacent conforming properties. Additionally, there is not space for maintenance without trespass. Staff believes a three foot side setback would be more appropriate.

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.*

In this case, there is currently not a unique property related hardship that would justify the applicant building a carport on the side property line.

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

The applicant could build a carport three feet from the side setback or build a garage in the backyard of the property.

#### **Staff Recommendation**

Staff recommends **DENIAL of variance request in A-16-085** based on the following findings of fact:

1. Staff was unable to find a property related hardship that would justify building a carport on the property line. 2. Building a carport so close to the side property line would greatly increase the risk of fire spread and water runoff to the adjacent property and would not provide any space for maintenance of the structure without trespass.