



# City of San Antonio

## Legislation Details (With Text)

**File #:** 16-3376

**Type:** Staff Briefing - Without Ordinance

**In control:** Board of Adjustment

**On agenda:** 6/6/2016

**Title:** A-16-075: (Continued from 05/09/16) A request by Darling G. Lopez for 1) an elimination of the required 30 foot platted front setback to allow a carport to remain on the front property line and 2) a variance from the Jefferson Neighborhood Conservation District design guideline that requires that a property may have one curb cut per 75 feet of frontage to allow a lot with two curb cuts and 3) a variance from the Jefferson Neighborhood Conservation District design guideline that requires that a driveway shall not be more than twelve feet wide, located at 2534 W. Mulberry. (Council District 7)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** A-16-075

**Applicant:** Darling G. Lopez

**Owner:** Darling G. Lopez

**Council District:** 7

**Location:** 2534 W. Mulberry Avenue

**Legal Description:** Lot 2, Block 14, NCB 9113

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

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

### Request

A request for 1) the elimination of the required 30 foot platted front setback, as described in Section 35-516(O), to allow a carport to remain on the front property line and 2) a variance from the Jefferson Neighborhood Conservation District design guideline that requires that a property may have one curb cut per 75 square feet of frontage to allow a lot with two curbs cuts and 3) a variance from the Jefferson Neighborhood Conservation District design guideline that requires that a driveway shall not be more wide than twelve feet wide.

### Executive Summary

The subject property is located at 2534 W. Mulberry Drive, approximately 220 feet north of W. Huisache Avenue. The applicant was cited by Code Enforcement for construction of a carport without permits that encroaches into the required front setback. The property was platted with a 30 foot front setback. The carport is located on the front property line, but does meet the side setback requirement. In addition to the setback

violation, the carport does not meet two of the “NCD-7” Jefferson Neighborhood Conservation District design guidelines. The applicant cleared a portion of the front yard for a second curb cut. This is prohibited by the Jefferson Neighborhood Conservation District, which allows one curb cut per 75 feet of frontage. Additionally, driveways are not to be more than twelve feet wide and a variance is required to allow for the existing driveway width.

This case was originally considered on May 09, 2016. The applicant sought a total of six variances at that hearing. After the case was continued, the applicant informed staff that they would comply with three of the six requirements including matching the building materials of the carport to the house, matching the primary dwellings road line, and concreting the driveway, eliminating the need for a variance from the NCD design requirement that pervious driveway surfaces must be lined by a durable concrete-like material. In total, three variances are now requested.

Neighborhood Conservation Districts are unique communities in San Antonio that stipulate additional design requirements to contribute to the essential character of the neighborhood.

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

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

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

The property is within the boundaries of the Near Northwest Neighborhood Plan and currently designated as Urban Low-Density Residential in the future land use component of the plan. The subject property is within the Jefferson/Woodlawn Lake 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 ensure uniform, safe development within the City of San Antonio. In addition, the public interest is represented by NCD design requirements that protect that character of these unique districts.

The carport, as constructed, would require the elimination of the 30' front setback to remain. This older community has several carports that do not meet setbacks. In most cases they fail to meet the now-required five foot side setback. Staff was unable to find another carport on the block that is located along the front property line. The carport meets the side setback.

The applicant cleared a portion of the front yard for a second curb cut and a wider driveway. There is an NCD provision that prohibits the second curb cut and another that limits the width to twelve feet.

Staff finds that the carport 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 should allow the entire front setback to be eliminated. Also, staff could not find a property-related hardship that warrants the elimination of the required NCD design requirements.

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 because the carport, as designed today, does not meet the neighborhood design requirements. The Jefferson Neighborhood Conservation District was created to positively influence future construction in the neighborhood. The carport does not meet the intent of the NCD.

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 Overlay Airport Hazard Overlay District.

1. *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.*

Carports are not uncommon within this community. Many carports encroach into side setbacks, but staff did not find another carport located along the front property line during the field visit. Also, while many older carports exist in the neighborhood, newer carports built after the adoption of the NCD appear to meet the NCD design requirements. In the past, the Board of Adjustment has denied requests to vary so far from the design guidelines.

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 any unique circumstance that warrants the granting of the requested variances.

**Alternative to Applicant's Request**

The applicant may be able to design a carport within the rear yard, accessible through the alley, that adheres to the required setbacks and design requirements.

**Staff Recommendation**

Staff recommends **DENIAL of variance request in A-16-075** based on the following findings of fact:

1. There are no special conditions present to warrant the granting of the requested variance.
2. The carport, as designed, detracts from the character of this unique neighborhood.