



# City of San Antonio

## Legislation Details (With Text)

**File #:** 16-3582  
**Type:** Zoning Case  
**In control:** Board of Adjustment  
**On agenda:** 7/11/2016  
**Title:** A-16-093 (Continuance from 06/06/16): A request by Marivel Martinez for an elimination of the 5 foot side setback to allow a carport to be located on the side property line, located at 210 Barrett Avenue. (Council District 3)  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** 1. A-16-093 Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** A-16-093  
**Applicant:** Marivel Martinez  
**Owner:** Marivel Martinez  
**Council District:** 3  
**Location:** 210 Barrett Avenue  
**Legal Description:** Lot 12, Block 11, NCB 7693  
**Zoning:** "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District  
**Case Manager:** Shepard Beamon, Planner

### Request

A request for an elimination of the 5 foot side setback, as described in Section 35-310.01, to allow a carport to be located on the side property line.

### Executive Summary

The applicant currently resides in the Harlandale Community and was originally platted in 1919. The applicant constructed a carport along the side property line without a permit and was cited by code. Before the current carport, there was a small carport present on the property. The current carport is much larger and appears to be closer to the property line than the previous carport. The current carport is constructed of wood and has gutters located along the side to mitigate water runoff. Per the application, the applicant states she has room for maintenance without trespass and provides the adjacent property with equal access to air and light. The applicant states the property related hardship is that her property only has one driveway as opposed to her neighbors who have two driveways. The applicant wishes to have a carport to shelter her vehicles from inclement weather and from the sun.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
South	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
East	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
West	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The property is within the boundaries of the Heritage South Sector Plan and designated as Suburban Tier in future land use component of the plan. The subject property is not located within a Neighborhood Association.

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. A carport located on the side property line is contrary to the public interest as it increases fire risk and does not allow for maintenance without trespass. The applicant has installed gutters on the carport, but will likely need to trespass to clean and maintain the gutters to ensure water does not fall onto the neighboring property.

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

Staff was unable to find a special condition in this case that would require the applicant to build a carport on the side property line.

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

Granting the variance will not result in substantial justice as there is not a property related hardship that requires the applicant to build on the side property line thus increasing fire risk for the adjacent property.

*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 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.*

A carport built on the side property line will increase fire risk to the adjacent property and will not provide adequate space for maintenance without trespass.

*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 which would require the applicant to locate a carport on the side property line. The location of the carport unnecessarily increases fire risk and does not leave any space for maintenance of the structure without trespass.

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

The applicant could build a carport that meets the required side setbacks or utilize the garage to shelter her vehicle.

### **Staff Recommendation**

Staff recommends **DENIAL of variance request in A-16-093** based on the following findings of fact:

1. There is not a property related hardship in this case. 2. Having a carport so close to the side property line will unnecessarily increase fire spread and will not leave room for maintenance without trespass.
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