



# City of San Antonio

## Legislation Details (With Text)

**File #:** 17-3035  
**Type:** Zoning Case  
**In control:** Board of Adjustment  
**On agenda:** 5/1/2017  
**Title:** A-17-095: A request by Alfonso and Juventina C. Varnador for 4.5 foot variance from the 5 foot side setback to allow a carport 6 inches from the side property line, located at 126 Dunning. Staff recommends Denial. (Council District 5)  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** 1. Attachments A-17-095

Date	Ver.	Action By	Action	Result
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**Case Number:** A-17-095  
**Applicant:** Alfonso and Juventina Varnador  
**Owner:** Alfonso and Juventina Varnador  
**Council District:** 5  
**Location:** 126 Dunning  
**Legal:** Lot 9 and E. 8 feet of Lot 8, Block 1, NCB 3142  
**Description:**  
**Zoning:** "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District  
**Case Manager:** Margaret Pahl, AICP, Senior Planner

### Request

A request for a 4.5 foot variance from the minimum 5 foot side setback, as described in Table 35-310, to allow a carport 6 inches from the side property line.

### Executive Summary

The subject property is located in the Roosevelt Park area between S. Presa and the IH-37 South. While many of the homes in this area are historic, the area is not within the boundaries of a historic district. According to the Code Enforcement notes on this case, the carport framing has been there for a long time, but the owner recently installed corrugated plastic sheeting to provide privacy. This plastic, framed with wood is a fire hazard and will not be permitted to remain, regardless of the Board's decision regarding the requested side setback variance.

In 2013, the applicant secured a permit to construct a detached garage in the rear yard, but the permit was never finalized.

**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	"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 Lone Star Community Plan and designated for Low-Density Residential uses in the future land use component of the plan. The subject property is also located within the boundaries of the Roosevelt Park Neighborhood Association. As such, they were notified and asked to 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 adequate setbacks to allow for long-term maintenance and fire separation. The requested variance to allow the carport less than one foot of the property line is contrary to public interest.

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

Literal enforcement of the ordinance would require that the owner provide covered parking behind the structure where an adequate setback can be provided.

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

The spirit of the ordinance is defined as the intention of the code rather than the exact letter of the law. The intent of the Code is to require a setback large enough to allow maintenance without trespass. The requested variance would not observe the spirit of the Code.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the zoning district in which the variance is located.*

The variance will not authorize the operation of a use other than those uses specifically authorized 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.*

The applicant is requesting the variance to allow the carport improvements to remain very near the property line. When the applicant tries to obtain a building permit however, the plastic sheeting will not be permitted to remain and a solid wall will instead be required. This wall would be similar to a fence built on the property line.

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 plight of the owner is that the houses were built with space for a driveway only, not room for a structure. When the original carport was there, it was metal and did not pose a fire hazard. Now the recent construction has introduced a flammable material very near the property line.

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

Denial of the requested variance would result in the applicant having to remove the metal carport and the plastic sheeting.

### **Staff Recommendation**

Staff recommends **DENIAL of the requested variance in A-17-095** based on the following findings of fact:

1. The applicant requested a variance to allow the carport improvements leaving no room for maintenance;
2. The recent plastic is flammable and will not be approved for a building permit.