



# City of San Antonio

## Legislation Details (With Text)

**File #:** 18-1621  
**Type:** Zoning Case  
**In control:** Board of Adjustment  
**On agenda:** 2/5/2018  
**Title:** A-18-024: A request by Richard Munoz for a four and a half foot variance from the five foot side yard setback, to allow a carport to be six inches from the side property line, located at 327 East Drexel Avenue. Staff recommends Denial with an Alternate Recommendation. (Council District 3)  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** 1. A-18-024 Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** A-18-024  
**Applicant:** Richard Munoz  
**Owner:** Richard Munoz  
**Council District:** 3  
**Location:** 327 E. Drexel Avenue  
**Legal Description:** The South Irregular 140.87 Feet Of Lot 19, Block 11, NCB 3279  
**Zoning:** "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District  
**Case Manager:** Logan Sparrow, Principal Planner

### Request

A request for a four and a half foot variance from the five foot side yard setback, as described in Section 35-310.01, to allow a carport to be six inches from the side property line.

### Executive Summary

The subject property is located at 327 East Drexel Avenue, approximately 254 feet east of South Pine Street, and backs up to the IH-10 frontage road. The applicant started construction of a fence, patio cover, and a carport in 2015 without permits. On November 5, 2015 Code Enforcement issued citations for construction without permits, and for the carport violating the required side setback. The applicant has recently come into the department and applied for a variance to permit the side setback encroachment. The carport is currently six inches from the side property line.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
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"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Vacant lots
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### Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	UZROW	IH-10 Expressway
South	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwellings
East	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwellings
West	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District,	Single-Family Dwellings

### Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the Highlands Community Plan and is currently designated Low Density Residential in the future land use component of the plan. The subject property is located within the boundaries of the Highland Hills 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 side setbacks which provide safe fire separation distances, and prevent the overcrowding of development. Staff cannot support a request for a six inch side setback. This distance provides no room for maintenance of the structure without trespass, provides too little fire separation distance, and as the design features a sloped roof, could drain large amounts of water onto adjacent property.

**Staff would support a three foot variance from the five foot side setback to allow the carport to be two feet from the side property line, which would still leave eight feet of width for the carport.**

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

Staff cannot find a special condition that warrants eliminating 92 percent of the side setback requirement.

**Staff will support a request to allow the carport two feet from the side property line, which will provide adequate space to maintain the structure, prevent rainwater runoff, and provide more fire separation from adjacent structures.**

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

A six inch setback does not observe the spirit of the ordinance as it fails to provide any of the protection that a five foot setback provides.

**A two foot setback, which would need to be fire-rated and meet code, would address those concerns.**

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

Adjacent property could be harmed by a six inch setback as the structure could lead to increased rainwater runoff, and the reduced setback increases the threat of fire spreading from one property to another.

**A two foot setback, designed to meet the fire code, would help to address these concerns.**

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 cannot find any unique circumstance that warrants reducing the side setback to as little as six inches.

**Staff will support a request for a two foot setback to allow the applicant enough space to have an operable carport.**

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

Denial of the variance requests would result in the carport needing to meet the full five foot side setback.

#### **Staff Recommendation**

Staff recommends **DENIAL WITH AN ALTERNATE RECOMENDATION of the requested variance in A -18-024**, based on the following findings of fact:

1. A six inch setback does not observe the spirit of the ordinance, and;
2. The requested variance could harm adjacent property, and;
3. A two foot setback, fire-rated to meet code, addresses these concerns.