



# City of San Antonio

## Legislation Details (With Text)

**File #:** 18-2872

**Type:** Zoning Case

**In control:** Board of Adjustment

**On agenda:** 4/16/2018

**Title:** (Continued from March 19, 2018) A-18-045: A request by Richard Rabago for a four foot variance from the five foot side setback requirement to allow a metal carport to be one foot from the side property line, located at 5802 Bennington Drive. Staff recommends Denial with an Alternate Recommendation. (Council District 7)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A-18-045 Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** A-18-045

**Applicant:** Richard Rabago

**Owner:** Richard Rabago

**Council District:** 7

**Location:** 5802 Bennington Drive

**Legal:** Lot 15, Block 1, NCB 13862

**Description:**

**Zoning:** "R-5 AHOD" Residential Single-Family Airport Hazard  
Overlay District

**Case Manager:** Dominic Silva, Planner

### Request

A request for a four foot variance from the five foot side setback requirement as described in section 35.310.01, to allow a metal carport to be one foot from the side property line.

### Executive Summary

The subject property is located at 5802 Bennington Drive on the corner of Darwin Drive. The applicant has constructed a metal carport behind the front privacy fence in order to protect company equipment and vehicles from theft or harm. The carport is made entirely of metal and does not slope to adjacent property.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
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"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
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### Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
South	"RM-4 AHOD" Residential Mixed Airport Hazard Overlay District	Duplex
East	UZROW	Drainage Easement
West	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

### Comprehensive Plan Consistency/Neighborhood Association

The property is located within the Southwest Sector Plan and designated as General Urban Tier in the future land use component of the plan. The subject property is located within the boundaries of the Thunderbird 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 structure is being utilized to house company vehicles and minimize street side parking, but is located too close to the side property line. Staff finds the request is contrary to the public interest.

**Staff recommends a two foot variance to allow the carport to be three feet from the side property line as the carport is large enough to accommodate a modification from the west property line.**

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

Staff cannot find any special conditions that warrant recommendation of the carport as built.

**Staff's alternative recommendation would result in a two foot coverage loss from the west property line. This alternative would allow the property owner to keep a fully functional carport and respect setbacks.**

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 the intent of the code, rather than the strict letter of the law. The intent of the setback limitation is to prevent fire spread, allow adequate space for maintenance, and encourage proper storm water drainage. Currently, the carport does not meet these requirements.

Staff recommends a three foot setback, which will not interfere with the applicant's initial request. Further, the carport is made of metal and will not increase fire risk and will allow adequate room for maintenance without trespass. Therefore, the spirit of the ordinance will be observed.

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 requested variance will not permit a use not authorized within the "R-5 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 requested variance to allow the carport to remain within the side setback alters the character of the neighborhood and could harm the adjacent lot.

**Staff's alternate recommendation satisfies this concern.**

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 is unable to identify any unique circumstances related to this property. The carport is large enough to adequately protect the vehicles and tools required while also adhering to the proper setbacks.

**The existing carport can be modified by two feet along the west property line and still provide coverage for vehicles and tools.**

### **Alternatives to Applicant's Request**

The alternative to the applicant's request is to conform to side setbacks set forth in the Unified Development Code.

### **Staff Recommendation**

Staff recommends **DENIAL of A-18-042 with an alternate recommendation of a two foot variance** based on the following reasons:

1. A two foot variance to allow a carport to be three feet from the side property line is adequate to allow maintenance without trespass, and;
2. Adequate space will be utilized to prevent storm water runoff, maintenance of property, and maintenance of the structure without trespass.