



# City of San Antonio

## Legislation Details (With Text)

**File #:** 18-3201

**Type:** Zoning Case

**In control:** Board of Adjustment

**On agenda:** 5/7/2018

**Title:** A-18-072: A request by Henry Gomez for 1) a 4'11" variance from the 5' side setback to allow an attached carport to be located 1" from the side property line and 2) a 9' variance from the 10' front setback to allow an attached carport to be located 1' from the front property line, located at 507 Astor Drive. Staff recommends Denial with an Alternate Recommendation. (Council District 3)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A-18-072 Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** A-18-072

**Applicant:** Henry Gomez

**Owner:** Henry Gomez

**Council District:** 3

**Location:** 507 Astor Street

**Legal:** Lot 17, NCB 6841

**Description:**

**Zoning:** "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District

**Case Manager:** Dominic Silva, Planner

### Request

A request for 1) a 4'11" variance from the 5' side setback, as described in Section 35-310.01, to allow an attached carport to be located 1" from the side property line and 2) a 9' variance from the 10' front setback, also described in Section 35-310.01, to allow an attached carport to be located 1' from the front property line.

### Executive Summary

The subject property is located at 507 Astor Street, approximately 100' east of South Palmetto Street. Code Enforcement initiated this case on March 2<sup>nd</sup>, 2018. The applicant is requesting to keep the carport built without permits within the front and side property setbacks.

If the variances are approved, the owner will need to apply for a permit, fire rate the structural members closest to the adjacent property, and install a fire rated wall.

### 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 Highlands Plan and is currently designated Low Density Residential in the future land use component of the plan. The subject property is within the Highland 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 required setbacks to ensure equal access to air, light, and distance for fire separation. Staff finds that the requested variance is contrary to the public interest.

**Staff realizes some relief is merited given the size of the lot and the amount of carports within the area; staff recommends a 1' side setback to limit any potential storm water runoff onto adjacent properties and adhere to fire separation and fire rating.**

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

Staff cannot find any special conditions that, if enforced literally, would result in any unnecessary hardship. If a permit was initially sought, staff could have advised on other approaches to achieve a similar result.

**Staff recommends a modification of the carport to be 1' from the side property line and supports the front setback variance request to allow the carport to be 1' from the front property.**

2. *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. As the carport is built entirely of wood, allowing the structure to remain 1" from the side property line increases the chance of fire spread.

**Modifying the carport to be 1' from the side property line would provide space for maintenance, encourage storm water drainage, and provide adequate fire separation.**

3. *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" Single-Family Airport Hazard Overlay District.**

4. *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.*

While the carport is designed such that rainwater runoff is not a concern for the applicant's property, the structure itself is still located too near the shared property line and possible drainage could lead into the adjacent property. Staff finds that the carport, as designed, could present a negative impact on the adjacent property.

**Staff recommends a 1' setback from the side property line would alleviate concerns of injuring the appropriate use of adjacent conforming properties while also eliminating the hardship of dismantling the carport altogether.**

5. *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 did not find any unique circumstance that warrants the granting of the requested side setback variance. Had the applicant applied for a permit, staff could have assisted with an alternative design that benefits the applicant and the community.

**Staff supports the carport placement with reduced side setbacks of 1' feet from the side property line and 1' from the front property line that would alleviate concerns of storm water runoff, fire spread, and maintenance of the structure.**

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

Denial of the variance request would result in the owner having to meet the required side and front setbacks or remove the carport entirely.

### **Staff Recommendation**

Staff recommends **DENIAL** of 1) a 4'11" variance from the 5' side setback to allow an attached carport to be located 1" from the side property line and an Alternate Recommendation of a 1' variance from the side setback

of the requested variance in **A-18-072**, based on the following findings of fact:

1. There are no special conditions present to warrant the granting of the requested variance of a 1” setback, and;
2. Staff recommends an alternate of the carport setback variance to be 1’ from the side property line to mitigate storm water runoff and adequately prevent fire spread.

Staff recommends **APPROVAL** of 2) a 9’ variance from the 10’ front setback to allow an attached carport to be located 1’ from the front property line of the requested variance in **A-18-072**, based on the following findings of fact:

1. The requested variance is unlikely to harm adjacent properties.