



# City of San Antonio

## Legislation Details (With Text)

**File #:** 18-5548  
**Type:** Zoning Case  
**In control:** Board of Adjustment  
**On agenda:** 10/1/2018  
**Title:** A-18-151: A request by Eva Velarde for a 4'11" variance from the 5' side setback to allow a carport to be 1" from the side property line, located at 137 Bailey Avenue. Staff recommends Denial with an Alternate Recommendation. (Council District 3)  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** 1. A-18-151 Attachments

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

**Case Number:** A-18-151  
**Applicant:** Eva Velarde  
**Owner:** Eva Velarde  
**Council District:** 3  
**Location:** 137 Bailey Avenue  
**Legal:** Lot 21, Block 79, NCB 3347  
**Description:**  
**Zoning:** "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District  
**Case Manager:** Debora Gonzalez, Senior Planner

### Request

A request for a 4'11" variance from the 5' side setback, as described in Section 35-310.01, to allow a carport to be 1" from the side property line.

### Executive Summary

The subject property is located at 137 Bailey Avenue, approximately 85 feet west of South Olive Street. The applicant is seeking to keep an attached carport, as built. The applicant states that she has had this carport in the same location for approximately 14 years with no complaints until now. Code Enforcement initiated this case on July 18, 2018. The structure is made entirely of metal. There are a few similar carports placed within the side setbacks across the applicant's property.

### 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 located within the boundaries of the Highlands Community Plan is currently designated as Low Density Residential in the future land use component of the plan. The subject property is located within the boundaries of the Highland Park Neighborhood Association. As such, they were notified and asked to comment.

### Street Classification

Bailey Avenue is classified as a Local Street.

### 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 served by setbacks, which help to provide consistent development within the City of San Antonio. The applicant is seeking a variance to allow the carport to be 1” from the side property line. The requested 1” side setback fails to provide adequate fire separation distance, provides no room for maintenance, and may drain water onto adjacent property. Staff finds that the carport, as proposed, is contrary to the public interest.

**Staff supports reducing the side setbacks to 3’, which would provide adequate room for maintenance and would provide better separation for fire spread and rainwater runoff.**

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

Staff is unable to establish any special condition that warrants reducing the side setback to 1”.

**The applicant could modify the proposed carport to have a 3’ side setback.**

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 code is to provide for consistent development and to establish room for maintenance, and to reduce the threat of fire spread. The requests to reduce the side setback do not observe the intent of the code.

**Staff supports a modified setback reduction to 3', as it addresses these concerns.**

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" Residential 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 other structures in the neighborhood enjoy reduced setbacks, staff cannot support a 1" side setback. It poses immediate risk to adjacent property and leaves no room for maintenance of the structure.

**The carport could be modified to allow carport structure at 3'.**

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 is unable to determine a unique circumstances existing on the site.

**The carport should be designed in a manner that respects the intent of the code.**

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

Denial of the variance request would result in the owner having to meet the required side setbacks and adhere to Section 35-310.01.

### **Staff Recommendation**

Staff recommends **DENIAL** of the variance in **A-18-151**, based on the following findings of fact:

1. The request creates unsafe fire protection distances.

Staff recommends **APPROVAL** of a variance to allow a carport with a 3' side setback in **A-18-151**, based on the following findings of fact:

1. A 3' side setback allows the carport to be easily fire rated, and is safe for the property owner and neighbors, and;
2. A 3' side setback provides reasonable space to maintain the structure.

