



# City of San Antonio

## Legislation Details (With Text)

**File #:** 19-1989  
**Type:** Zoning Case  
**In control:** Board of Adjustment  
**On agenda:** 2/18/2019  
**Title:** BOA-19-10300002: A request by James Clark Sidney for a 4'8" variance from the 5' side setback requirement to allow for a structure to be 4" from the side property line, located at 1325 West Elsmere Place. Staff recommends Denial. (Council District 1)  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** 1. BOA-19-10300002 Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** BOA-19-10300002  
**Applicant:** James Clark Sidney  
**Owner:** James Clark Sidney  
**Council District:** 1  
**Location:** 1325 West Elsmere Place  
**Legal:** Lot 18, Block 63, NCB 2757  
**Description:**  
**Zoning:** "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District  
**Case Manager:** Mercedes Rivas, Planner

### Request

A request for a 4'8" variance from the 5' side setback requirement, as described in Section 35-371(a), to allow for a structure to be 4" from the side property line.

### Executive Summary

The subject properties are located at 1325 West Elsmere Place. The applicant is requesting a decrease of the side building setback line for an existing carport.

### Code Enforcement History

No violations of the requirements of the UDC were observed upon a staff visit to the site, and there have been no code violations reported.

### **Permit History**

No permit history related to this proposed carport exists on the property. The property owner is seeking a variance to allow for permit to be issued.

### **Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Short Term Rental

### **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 Near Northwest Community Plan and currently designated as “Urban Low Density Residential” in the future land use component of the plan. The subject property is located within the boundaries of the Keystone Neighborhood Association. As such, they were notified and asked to comment.

### **Street Classification**

West Elsmere Place 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 remain four inches from the front property line. Allowing the carport to be four inches from the side property line interferes with the character of the neighborhood. Staff finds that the carport, as proposed, is contrary to the public interest.

2. *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 front setback to four inches.

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. In this case, the intent is to provide enough of a setback to allow for long-term maintenance without trespass. The elimination does not provide such clearance and does not observe the spirit of the ordinance.

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 by the zoning 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 placement of a carport four inches from the side property line is contrary to the essential character of the district.

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 determine any unique circumstance existing on the site that warrants the near elimination of the side setback.

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

Staff recommends approval of an alternate variance to allow the carport to be three feet from the side property line.

### **Staff Recommendation**

Staff recommends **DENIAL** of variance in **19-10300002**, based on the following findings of fact:

1. The carport, as constructed, fails to provide adequate room for maintenance.