



# City of San Antonio

## Agenda Memorandum

**File Number:**16-2360

**Agenda Item Number:** 7.

**Agenda Date:** 4/4/2016

**In Control:** Board of Adjustment

**Case Number:** A-16-057  
**Applicant:** Daniel Zertuche  
**Owner:** Daniel Zertuche  
**Council District:** 5  
**Location:** 215 West Emerson Avenue  
**Legal Description:** Lot S 132 FT of 19, Block 11, NCB 7398  
**Zoning:** "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District  
**Case Manager:** Kristin Flores, Planner

### **Request**

A request for 1) a six foot and six inch variance from the ten (10) foot front setback, as described in Section 35-310.01, to allow a carport to remain three feet and six inches from the front property line and 2) a four foot variance from the five (5) foot side yard setback, as described in Section 35-310.01, to allow a carport to remain one foot from the side property line

### **Executive Summary**

The subject property was platted in 1946 as part of the Brentwood Village Subdivision. The applicant purchased the home in May of 2007 and since this time has done several renovations to his home. The largest renovation was completed in 2012 when the applicant tripled the total square footage and enclosed his garage. In January of 2016, the applicant began construction of a carport. He was cited for working without a permit, encroaching into the setbacks, and given a stop work order. During the site visit, staff found other carports in the neighborhood, but none of were as large as the carport found on the subject property.

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

Existing Zoning	Existing Use
"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

### **Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
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North	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
South	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
East	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
West	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

### **Comprehensive Plan Consistency/Neighborhood Association**

The property is within the boundaries of the Kelly-South San Pueblo Community Plan and currently designated Low Density Residential in the future land use component of the plan. The subject property is located within the Thompson Neighborhood Association. As such, the neighborhood association was 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 front and side setback limitations to protect property owners and to contribute to a sense of community. Staff finds that the request for a carport encroaching into the front and side setback is contrary to the public interest. The carport is over 30 feet long and over 15 feet wide. If the applicant were to comply with setbacks he would still have substantial room to park a car under the carport.

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

Staff was not able to find a special condition that should permit the property owner to encroach within the front and side setbacks.

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

Granting the requested variance will not result in substantial justice as no special condition is present. Additionally, water runoff to the adjacent property could cause damage.

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

The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the "R-6 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.*

Staff finds that a carport within the front setback is out of character with the essential character of the community. Staff did not find any other carports in the neighborhood of such magnitude.

*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 was unable to find a unique circumstance that would require the applicant to encroach into the front and side setbacks. There is not a unique circumstance present on the property.

**Alternative to Applicant's Request**

The applicant could follow the guidelines for front and side setbacks, as described in 35-310.01.

**Staff Recommendation**

Staff recommends **DENIAL of variance request in A-16-057** based on the following findings of fact:

1. Staff was unable to find a special or unique condition which would require the applicant to encroach into the front and side setbacks.