



# City of San Antonio

## Agenda Memorandum

**File Number:**16-3464

**Agenda Item Number:** 10.

**Agenda Date:** 6/6/2016

**In Control:** Board of Adjustment

**Case Number:** A-16-097  
**Applicant:** Albert Litterio  
**Owner:** Albert Litterio  
**Council District:** 5  
**Location:** 2315 Delgado Street  
**Legal Description:** Lot 18, Block 14, NCB 8894  
**Zoning:** "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District  
**Case Manager:** Kristin Flores, Planner

### Request

A request for an elimination of the 5 foot side setback, as described in Section 35-310.01, to allow a carport to be located on the side property line.

### Executive Summary

The applicant currently resides in Cenizo Park which was platted in 1944. The applicant recently replaced a carport without pulling a permit and was cited by code. The carport is made of wood and was constructed along the side property line. Carports are very common in this neighborhood as most carports are original to the initial home construction. The applicant wishes to keep the carport in the current location and not comply with the required UDC side setback.

### 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
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 not within the boundaries of a Community or Sector Plan and does not have a future land use designation. The subject property is within the Prospect Hill Neighborhood Association. As such, the neighborhood association was notified and asked to comment.

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 setbacks that help to ensure that we have uniform, safe development within the City of San Antonio. A carport built on the side property line is contrary to the public interest as it increases fire risk and water runoff to adjacent property.

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

Staff was unable to find a special condition that would require the applicant to eliminate the side setback.

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

Granting the variance will not result in substantial justice as there is not a property related hardship that requires the applicant to build so closely to the side property line thus increasing water runoff and fire risk for the adjacent property.

*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.*

A carport built on the side setback is likely to increase water runoff and increase fire risk to the adjacent property. The adjacent primary structure is located approximately three feet from the side property line. If the carport is permitted to remain in the current position this would leave only three feet between adjacent structures.

*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 which would require the applicant to locate the carport on the side property line. Allowing a carport to be located on the side property line unnecessarily increases fire risk and water runoff and does not leave any space for maintenance of the structure without trespass.

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

The applicant could build a carport that meets the required side setback.

**Staff Recommendation**

Staff recommends **DENIAL of variance request in A-16-097** based on the following findings of fact:

1. There is not a special condition or property related hardship in this case. 2. Having a carport so close to the side property line will unnecessarily increase water runoff and fire spread and will not leave room for maintenance without trespass.