



# City of San Antonio

## Agenda Memorandum

**File Number:**16-3959

**Agenda Item Number:** 9.

**Agenda Date:** 7/25/2016

**In Control:** Board of Adjustment

Case Number: A-16-124  
Applicant: Barbara Divila  
Owner: Marvin and Barbara Divila  
Council District: 2  
Location: 4819 Castle Stream Drive  
Legal: Lot 113, Block 18, NCB 17733  
Description:  
Zoning: "R-6 AHOD" Single-Family Residential Airport Hazard  
Overlay District  
Case Manager: Shepard Beamon, Planner

### Request

A request for a twenty (20) foot variance from the thirty (30) foot platted front setback, as described in Section 35-516 (O), to allow a carport to be ten (10) feet from the front property line.

### Executive Summary

The applicant currently resides in the East Village Subdivision, a subdivision that was recorded in 1970. The subdivision plat includes a 30 foot platted front setback. The applicant wishes to build a carport 10 feet from the front property line, the UDC standard front setback, but due to the 30 foot platted front setback must be granted a variance before a carport can be constructed. The applicant has not started to construct the proposed carport as they wish to follow the proper proceedings for permits and construction. They are requesting the variance to build a carport for added protection from inclement weather.

### 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 not within the boundaries of any community, neighborhood, or sector plan and therefore does not have a future land use designation. The subject property is located within the East Village 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 setback limitations to protect property owners and create a cohesive streetscape. The City's zoning setback of 10 feet provides this streetscape protection in other areas. Since the carport meets the side setback a modified 20 foot variance would not be contrary to the public interest.**

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

**Literal enforcement of the platted setback would not allow any carport. Providing equal treatment of enforcing the 10 foot zoning setback is not a hardship.**

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

**The spirit of the ordinance represents the intent of the requirement. The City zoning setback is 10 feet and represents the ordinance and the proposed carport meets this spirit.**

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.*

**The carport will be an attractive addition to the home when it is completed. A 20 foot variance from the 30 foot platted setback will be equivalent to the City's established standard for front setback.**

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.*

The applicant has not yet begun construction of the carport as he has done the property research and will be meet the requirements before beginning construction. The City of San Antonio has an established 10 foot front setback, applied in most residential districts, and the proposed carport meets this established setback.

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

The applicant could remove the platted setback and build to the 10 foot zoning setback. A request to remove the platted front setback is considered by the City of San Antonio Planning Commission.

### **Staff Recommendation**

Staff recommends **APPROVAL of the requested variance in A-16-124** based on the following findings of fact:

1. The proposed carport meets the spirit of the code as it is to be built 10 feet from the front property line meeting the UDC standard for residential construction.
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### **Attachments**

Attachment 1 - Notification Plan (Aerial Map)

Attachment 2 - Plot Plan (Aerial Map)

Attachment 3 - Site Plan

Attachment 4 - Site Photos