



# City of San Antonio

## Agenda Memorandum

**File Number:**16-4899

**Agenda Item Number:** 6.

**Agenda Date:** 10/3/2016

**In Control:** Board of Adjustment

Case Number: A-16-159  
Applicant: Rene Villalobos  
Owner: Efren Villalobos  
Council District: 7  
Location: 2211 Cincinnati Avenue  
Legal: Lot 28, Block 19, NCB 8334  
Description:  
Zoning: "C-3R NCD-8 AHOD" General Commercial Restrictive  
Alcoholic Sales Woodlawn Lake Neighborhood  
Conservation Airport Hazard Overlay District  
Case Manager: Shepard Beamon, Planner

### Request

A request for a 27 foot variance from the 30 foot rear setback, as described in Table 35-310.01, to allow two carports to remain three (3) feet from the rear property line.

### Executive Summary

The subject property is located at 2211 Cincinnati Avenue. The applicant built two open structures without permits and was cited by Code Enforcement. The open structures, as they stand now, are both located three feet from the shared rear property line of the "MF-33" Multi-Family zoned property. According to Table 35.310.01, commercial uses which abut residential uses must adhere to a 30 foot rear setback. As the open structure is largely comprised of metal there is a lessened concern of fire spreading to the adjacent structures. However, if the variance is granted, the applicant will be required to adhere to fire separation construction requirements.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"C-3R NCD-8 AHOD" General Commercial Restrictive Alcoholic Sales Woodlawn Lake Neighborhood Conservation Airport Hazard Overlay District	Auto Restoration

### Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“MF-33 NCD-8 AHOD” Multi-Family Woodlawn Lake Neighborhood Conservation Airport Hazard Overlay District	Single-Family Residences
South	“C-3 NCD-8 AHOD” General Commercial Woodlawn Lake Neighborhood Conservation Airport Hazard Overlay District and “C-2 NCD-8 AHOD” Commercial Woodlawn Lake Neighborhood Conservation Airport Hazard Overlay District	Auto Shop, Tax Services, Restaurant, Duplexes
East	“C-3 NCD-8 AHOD” General Commercial Woodlawn Lake Neighborhood Conservation Airport Hazard Overlay District and “C-3R NCD-8 AHOD” General Commercial Restrictive Alcoholic Sales Woodlawn Lake Neighborhood Conservation Airport Hazard Overlay District	Vacant Commercial, Auto Parts
West	“C-3 NCD-8 AHOD” General Commercial Woodlawn Lake Neighborhood Conservation Airport Hazard Overlay District and “C-2 NCD-8 AHOD” Commercial Woodlawn Lake Neighborhood Conservation Airport Hazard Overlay District	Duplex, Medical Office, Tire Shop, Restaurant

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

The property is located within the boundaries of Near Northwest Neighborhood Plan and is designated as Neighborhood Commercial in the future land use component. The subject property is located within the boundaries of the Woodlawn Lake 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, these criteria are represented by minimum rear setbacks to protect surrounding home owners from fire hazard, water runoff, and other possible nuisances. Providing covered workspace so close to residential uses may have negative effects on the adjacent properties, such as water runoff and noise nuisances. Therefore, the structures are contrary to the public interest.

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

Staff is recommending denial of the 27 foot variance to allow the open structures to remain three feet from the property line as there is no special condition present in this case. The structures and portions of the primary building both encroach into the 30 foot setback. To satisfy the spirit of the ordinance, portions of the primary structure would also need to be removed. Removal of the open structures would provide an adequate setback

from the adjacent residential properties.

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

Granting the requested rear setback variance will not result in substantial justice. The covered additions, located three feet from the property line, pose possible risk for noise or other nuisances to adjacent property owners. The applicant has stated the structures are to provide shade. There are other alternatives to providing shade, such as trees. Further, several of the commercial buildings along the corridor have been able to comply with the established setback.

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 “C-3R NCD-8 AHOD” General Commercial Restrictive Alcoholic Sales Woodlawn Lake Neighborhood Conservation 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 open structure, located only three feet from the adjacent property, poses an increased risk of damaging the adjacent property due to increased water runoff. Further, such close proximity to single residences could create noise and visual nuisances.

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 determine any unique circumstances that would warrant granting the requested variance to allow an open structure to encroach into the 30 foot rear setback.

### **Alternative to Applicant’s Request**

The applicant can reduce the width of the open structure to meet the 30 foot minimum set back, as described in Table 35-310.01

### **Staff Recommendation**

Staff recommends **DENIAL of a 27 foot variance to allow two open structures to remain three feet from the rear property line in A-16-159** based on the following findings of fact:

1. The close proximity of the open structures to adjacent properties increases the risk of noise and visual nuisances to adjacent property owners;
2. There is little room for maintenance of the structure without trespass and the structures may create water runoff onto adjacent properties.