



# City of San Antonio

## Agenda Memorandum

**File Number:**16-4904

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**Agenda Item Number:** 11.

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

**In Control:** Board of Adjustment

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Case Number: A-16-158  
Date: October 3, 2016  
Applicant: Edizon Estrada  
Owner: Edizon Estrada  
Council District: 3  
Location: 4422 Commercial Avenue  
Legal: Lot 6, Block 61, NCB 11145  
Description:  
Zoning: "RM-4 AHOD" Residential-Mixed Airport Hazard Overlay District  
Prepared By: Shepard Beamon, Planner

### **Request**

A request for 1) a five foot variance from the 10 foot front setback, as described in 35-310.01, to allow two carports to be five (5) feet from the front property line and 2) an elimination of the five foot side setback, as described in section 35-310.01, to allow two carports to be on the side property lines and 3) a special exception to allow a predominately open and wood privacy fence to be as tall as six feet in the front yard of the property, as described in Section 35-514 (d), and 4) a variance from the provision that states that corrugated or sheet metal is not permitted as a fencing material, as described in Section 35-514(a)(6)(d).

### **Executive Summary**

The subject property is located at 4422 Commercial Avenue. Currently, the subject property has one attached carport on the side of the primary dwelling, which encroaches into the five foot side setback on the side property line. The applicant wishes to extend the existing carport five feet from the front property line. In addition to this, the applicant wishes to construct a new carport on the opposite side of the home, which is also five feet from the front property line and on the side property line. During field visits, staff also noticed that the property has both predominantly open and solid fencing within the front of the property that exceeds the permitted five foot predominately open and three foot solid fence screening. Lastly, portions of fencing along the side of the existing carport are constructed of corrugated metal, which is a prohibited fencing material, per the Unified Development Code.

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

Existing Zoning	Existing Use
"RM-4" Residential-Mixed Airport Hazard Overlay District	Single-Family Dwelling

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

Orientation	Existing Zoning District(s)	Existing Use
North	"RM-4" Residential-Mixed Airport Hazard Overlay District	Single-Family Dwellings
South	"RM-4" Residential-Mixed Airport Hazard Overlay District	Vacant
East	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
West	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwellings

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

The property is within the boundaries of the West Sector Plan and designated General Urban Tier in the future land use component of the plan. The subject property is not located within the boundaries of, or within 200 feet of, a registered neighborhood association.

### **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 front and side setbacks to protect surrounding property owners from fire hazard, water runoff, and other adverse impacts. Building two carports on the side property line will not allow maintenance without trespass and will increase water run-off on the adjacent property. Having two carports encroach in the front setback is not common in the neighborhood and could be visually offsetting to surrounding property owners. Further, the public interest is represented by the prohibition against corrugated metal as a fencing type due to the image that it creates, as well as, safety concerns with the sharp material. Section 35-516(a)(6)(d) states that "sheet, roll, or corrugated metal" is not a permitted fencing material. The use of corrugated metal creates a mismatched look with adjacent properties and detracts from the character of the community. Also, having taller fence heights does not protect motorists while driving and prohibits the views of homes. Hence, the requested variances and special exception are contrary to the public interest.

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

Staff was unable to find a special condition in this case to allow two carports to encroach in both the front and side yard setbacks. Further, reducing the front yard fence height and usage of permitted fencing material would result in no unnecessary hardship and will help create a uniform community. The applicant currently has a carport that is the length of the primary dwelling and can cover two vehicles. If the owner wishes to extend the carport, it should meet the required 10 foot front setback and still provide adequate coverage for parking.

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

done.

The spirit of the ordinance provides fencing height and design requirements to protect homes and also to encourage a sense of community. This fencing material and height create a break with the consistency of residential fencing located within this community, which has the effect of detracting from the character of this district. Staff finds that by granting the variance, the spirit of the ordinance will not be observed and substantial justice will not be done. Substantial justice will not be done as the existing and proposed carports will not allow maintenance without trespass on the adjacent property. Further, the encroachment into the front setback will not establish uniformity within the neighborhood and could hinder the visual clearance for the adjacent property owner.

*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 “RM-4 AHOD” Residential-Mixed 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 requested carports alter the character of the district as staff could not identify any other carports that encroach into the side or front setbacks within the neighborhood. Further, existing and proposed carports would negatively impact the adjacent property owner. Building a carport on the side property line will increase water runoff and require maintenance with trespass. Also, constructing a carport too close to the front property line may interfere with Clear Vision, as the adjacent property owner has a driveway that abuts the subject property’s driveway. Additionally, the applicant has constructed a six foot tall corrugated metal fence along the property line that detracts from the character of the neighborhood and creates a mismatched look with the adjacent property. Staff finds that the corrugated metal fence, along with the fence height, does negatively alter the character of the district in which the property is located.

*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 find any unique circumstances present on the subject property to warrant the granting of the requested variances. The owner could construct a fence of permitted materials and height. Also, the requested and existing carports could be constructed to meet the required setbacks and still provide adequate spacing for parking.

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

The applicant could construct carports to meet 10 foot front yard setback.

The applicant could reduce the carports to have a minimum two (2) foot side setback to allow room for maintenance.

The applicant could reduce the fence height in the front yard to meet the required five (5) foot predominantly open and three (3) foot solid fencing.

The applicant needs to remove the corrugated metal and replace it with a permitted fencing material.

### **Staff Recommendation**

Staff recommends **DENIAL** of the request for 1) a five foot variance from the 10 foot front setback to allow two carports to be five (5) feet from the front property line, 3) a special exception to allow a predominately

open and wood privacy fence to be as tall as six feet in the front yard of the property, 4) a variance from the provision that states that corrugated or sheet metal is not permitted as a fencing material in case **A-16-158** based on the following findings of fact:

1. Staff was unable to find any unique circumstances present in this case to warrant the granting of the variances and special exception;
2. The existing corrugated metal fence detracts from the residential character of the community and does not allow for maintenance and lawn care;
3. The reduction of the front setback is not a prevalent feature within the neighborhood and could interfere with Clear Vision for the adjacent property;
4. The fence height in the front is not within character of the surrounding properties and could hinder vision for neighbors.

Staff recommends **DENIAL of the request for an elimination of the five foot side setback to allow two carports to be on the side property lines with an alternate recommendation that the carports be two (2) feet from the side property line** based on the following findings of fact:

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2. Staff was unable to find a property related hardship that would justify having a carport on the side property line