



# City of San Antonio

## Agenda Memorandum

**File Number:** 17-1720

**Agenda Item Number:** 11.

**Agenda Date:** 2/20/2017

**In Control:** Board of Adjustment

Case Number: A-17-055  
Applicant: Altonia Johnson  
Owner: Altonio Johnson  
Council District: 2  
Location: 5815 Castle Brook Drive  
Legal: Lot 14, Block 1, NCB 15791  
Description:  
Zoning: "R-6 AHOD" Residential Single-Family Airport Hazard  
Overlay District  
Case Manager: Margaret Pahl, AICP, Senior Planner

### Request

A request for 1) a 10 foot variance from the 30 foot platted front setback to allow carport to be 20 feet from the front property line and 2) a 5 foot variance from the 5 foot side setback, both as described in Table 35-310, to allow a second carport to be on the side property line.

### Executive Summary

The subject property is located in the East Village Subdivision, recorded in 1968 and includes almost 10,000 square feet of lot area. The home was constructed in 1970 with an attached garage. The garage has been converted into living space and the owner has recently constructed two carports; one to the front and one on the side. The carport in front encroaches into the 30 foot front platted setback, but remains 20 feet back from the property line. The second smaller carport is located on the side property line. According to the applicant, it maintains a 12 foot distance from the adjacent home and will be retrofitted with fire rated construction if the requested variance is approved. The applicant has included details in the application materials outlining plans to address fire spread during the building permit process.

The property is irregular in shape with a wide frontage and a narrower rear. This shape has an impact on the side setback which is narrowing with every foot behind the street. The smaller carport on the side is 13 feet wide in the front and only 9 feet wide in the rear. The applicant has told staff that it is for use as cover for a small boat.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
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"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family House
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### Surrounding Zoning/Land Use

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

### Comprehensive Plan Consistency/Neighborhood Association

The property is not within the boundaries of any type of sector plan or community plan. The subject property is however located within the boundaries of the East Village Neighborhood Association. As such, they were 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 the front and side setbacks to ensure that the neighboring property is not negatively impacted by inadequate separation. The requested variance to the platted front setback is not contrary to public interest, maintaining 20 feet from the front property line.**

The requested side setback variance however would not be in the public's interest, but instead reduce the side setback to nine inches. **A modified variance of 3 feet, allowing the new carport to be 2 feet from the property line, would protect the public interest.**

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

**The special condition on this lot that make enforcement of the ordinance an unnecessary hardship is the 1968 platted setback. Large yards were a common feature during this timeframe but have become difficult to maintain as irrigation water increases in price. Therefore, platted setback is unnecessary and constitutes a hardship.**

Setbacks are justified regulations, meant to eliminate trespass and provide access for maintenance. While the applicant describes the 12 foot distance of the neighbor's house, none of that separation is provided on the subject property. **A reduced variance of 3 feet would provide two feet of setback, allow for long term maintenance, while still providing enough width for the carport.**

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

**The intent of a front setback is to create an open street view and establish uniform development standards. The larger carport as constructed maintains a 20 foot front setback, twice as deep as the zoning setback would require. Therefore, the requested front variance would observe the spirit of the ordinance.**

**The applicant has constructed a small wooden carport with fencing very near the side property line. The carport is 13 feet wide and could be modified to provide a two foot setback, and still protect the boat as intended.**

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

**The variance will not authorize the operation of a use other than those uses specifically authorized 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 as constructed matches the architectural details of the home and contributes to the essential character of the district. The 20 foot setback provides an open yard and does not injure the adjacent property.**

**A modified variance of three feet along the side property line to allow the carport to be two feet from the side property line will mitigate the anticipated negative impacts, and not injure adjacent properties.**

- 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 unique circumstance is a 1968 platted front setback, which has been violated or ignored for decades. The applicant has created a carport/front porch, with ceiling fans and electric lights, while maintaining a 20 foot setback from the front property line.**

**The smaller carport encroaching into the side setback could be modified and reduced in width by two feet and still provide coverage for the boat.**

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

Denial of the variance request would result in the owner having to meet both setback standards.

### **Staff Recommendation**

Staff recommends **APPROVAL of the requested front setback variance in A-17-055, to allow a carport 20 feet from the front property line**, based on the following findings of fact:

1. That the applicant could remove the platted setback line; and
2. That the staff has only recently started to enforce platted setbacks.

Staff recommends **DENIAL** of the requested side setback variance, but **approval of an alternative variance of three feet to allow for a two foot side setback**, based on the following findings of fact:

1. That the carport is over 13 feet in width and could be reconstructed to provide space for long-term maintenance.