



# City of San Antonio

## Agenda Memorandum

**File Number:**17-4105

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**Agenda Item Number:** 9.

**Agenda Date:** 7/17/2017

**In Control:** Board of Adjustment

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Case Number: A-17-134  
Applicant: Enrique & Diana de la Cruz  
Owner: Enrique & Diana de la Cruz  
Council District: 6  
Location: 7708 Pipers View  
Legal: Lot 3, Block 8, NCB 18058  
Description:  
Zoning: "R-6 AHOD" Residential Single-Family Airport Hazard  
Overlay District  
Case Manager: Oscar Aguilera, Planner

### **Request**

A request for a 22 foot variance from the 25 foot platted building setback, as described in Section 35-516 (O), to allow a carport 3 feet from the front property line.

### **Executive Summary**

The subject property was platted as part of the Pipers Meadow Subdivision Unit 2, recorded in 1974. The subdivision plat includes a 25 foot platted front setback. The UDC standard front setback is 10 feet from the property line, but due to the 25 foot platted front setback, a variance is required before the applicant can construct the proposed carport. The property owner recently constructed a wooden carport on the front property line without a building permit. The applicant built the carport 3 feet from the front property line. The property owners were cited by Code Enforcement but were unable to get a building permit without approval of the requested variance. According to the applicant, the carport is necessary to protect the family and his property during inclement weather. The new wooden carport satisfies the minimum 5 foot side setback, therefore it will not require fire-rated construction.

### **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 Airport Hazard Overlay District	Single-Family Dwelling

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

The property is within the boundaries of the West/Southwest Sector Plan and currently designated Suburban Tier in the future land use component of the plan. The subject property is located within the boundaries of the Pipers Meadow Neighborhood Association and they were 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 a 25 foot platted front setback, and the 10 foot UDC front setback. The carport was built for added protection for inclement weather and safety. There are similar carports near or adjacent to the property. However, staff feels that the request for the carport to encroach 22 feet into the recorded front setback would change the subdivision uniformity and alter the character of the neighborhood. Staff finds that the request will be contrary to the public interest due to an alteration of the subdivision's design scheme.

**A 10 foot setback would allow for room to maintain the structure and the alternate setback will not be contrary to the public interest.**

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

The property was originally built with an attached two car garage. The garage provides access into the house without the need to exit and could provide the safety described in the application.

**Literal enforcement of this setback would prohibit the carport entirely. The applicant could reduce the carport to include a 10 foot setback and still have enough room for a carport.**

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

The spirit of the ordinance is the intent of the regulations. 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 does not meet this spirit. There are carports adjacent to the property that do not meet the platted setback requirement but that do meet City zoning setback is 10 feet near the property. Therefore, the carport will be out of character with the surrounding properties.

**However, the spirit of the ordinance will be respected in that the carport does not harm any adjacent properties as the carport respects the established side setbacks and does not interfere with the Clear Vision requirements. Reducing the carport's length and providing a 10 foot setback, will better observe the spirit.**

4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the zoning district in which the 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 proposed carport will meet the side setback of 5 feet. There are other carports prevalent in the area. However, a 22 foot variance from the 25 foot platted setback for a 3 foot front setback request is unique as there are no structures encroaching 22 feet into the platted setback on this street, placing the carport in conflict with the essential character of the subdivision.

**However, providing a 10 foot setback would provide better uniformity with surrounding properties. As the structure will meet the UDC setback requirements, it will not impose any immediate threat of water runoff or fire spread on 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 plight of the owner is that the subdivision includes a platted front setback and the property owner is requesting the variance in order to provide covered parking when there is inclement weather to protect his family and property.

**The applicant could increase the setback to 10 feet and still have room for a carport with an allowance of up to a five foot overhang, which is long enough to cover two vehicles**

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

Denial of the variance request would result in the removal of the structure.

#### **Staff Recommendation**

Staff recommends **DENIAL with an alternate recommendation for a 15 foot variance to allow a 10 foot setback in A-17-134** based on the following findings of fact:

1. A 10 foot setback would still allow the owner to achieve the construction of the carport;
2. Carports are very common in the subdivision; however, most carports provide at least a 10 foot setback.