



# City of San Antonio

## Agenda Memorandum

**File Number:**17-5219

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**Agenda Item Number:** 11.

**Agenda Date:** 9/18/2017

**In Control:** Board of Adjustment

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Case Number: A-17-164  
Applicant: Chriselda Perez  
Owner: Chriselda Perez  
Council District: 5  
Location: 1340 Chalmers Avenue  
Legal: Lots 20 and 21, Block 6, NCB 7928  
Description:  
Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard  
Overlay District  
Case Manager: Shepard Beamon, Senior Planner

### **Request**

A request for 1) a 9 foot 11 inch variance from the 10 foot front setback, as described in Section 35-310.01, to allow a carport one inch from the front property line and 2) a 4 foot 6 inch variance from the 5 foot side setback, as described in Section 35-310.01, to allow a carport to be six inches from the side property line.

### **Executive Summary**

The applicant is requesting the variance to allow a metal carport to remain one inch from the side property line and six inches from the front property line. During site visits, City staff observed the carport's posts six inches from the side, with a one foot overhang, which appears to be over the property line, and nine inches from the front property line with an eight inch overhang. The applicant stated she would be willing to shave down the side overhang to align with the steel beam to allow a six inch setback. The applicant stated the carport was constructed for convenience as one of the family members has an intellectual disability that creates difficulty when entering and exiting a vehicle during inclement weather.

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

Existing Zoning	Existing Use
"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Home

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

Orientation	Existing Zoning District(s)	Existing Use
North	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Homes
South	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Homes
East	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Homes
West	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Homes

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

The property is within the boundaries of the Nogalitos/South Zarzamora Neighborhood Plan and currently designated as Low Density Residential in the future land use component of the plan. The subject property is located not within the boundaries 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, the public interest is represented by minimum setbacks. The carport's encroachment into the front setback interferes with the Clear Vision requirements and is an obstruction of view for the owner when exiting the driveway. The variance from the side setback provides only six inches of spacing between the posts and the side property line, which prevents the owner from maintaining the structure without trespass.

**A three side setback would provide the needed space to maintain the structure.**

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

Literal enforcement of the front setback would not result in an unnecessary hardship as it still provides 33 feet of carport length, which is adequate depth to park a vehicle.

**Literal enforcement of the ordinance would result in an unnecessary hardship as the five side setback would not allow a vehicle to be parked as the driveway measures only 10 feet wide. A reduction of the side setback to three feet would still provide eight feet 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 is the intent of the Code, rather than the strict letter of the law. In this case, the intent of the front setback is to prevent overcrowding of front yards and protect the rights of neighboring properties. The requested carport does not meet the spirit as it produces water runoff on the adjacent property and does not provide room for maintenance without trespass on the neighboring property or public right-of-way. Further, the carport significantly reduces the front setback and overcrowds the front yard.

**The reduction to a three foot side setback provides room to maintain the structure without trespass on the neighboring property.**

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 variances will not authorize the operation of a use on the subject property other than those specifically permitted in the “R-4 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 is constructed in such a way that it produces water runoff on the adjacent property. Further, the carport detracts for the overall appearance of the district as staff could not identify any other carports in the immediate surrounding area that were constructed almost directly on the front and side property lines.

**An alternate recommendation of a three foot side setback would reduce the amount of water runoff on the adjacent property.**

*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.*

There is no unique circumstance existing on the property that would require nearly the entire elimination of the front and side setbacks. The carport could be constructed to meet the front setback and allow some side setback, and accommodate the family’s needs.

**However, the full five foot side setback restricts parking on the property. A reduction to a three foot side setback would provide adequate separation between properties.**

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

The owner would need to construct a carport that meets all zoning setback requirements.

#### **Staff Recommendation**

Staff recommends **DENIAL of the request for a 9 foot 11 inch variance from the 10 foot front setback to allow a carport one inch from the front property line**, based on the following findings of fact:

1. The request detracts from the character of the district as there are no other carports built almost directly on the front property line; and
2. The request presents overcrowding in the front yard; and
3. The request does not meet the Clear Vision requirement.

Staff recommends **DENIAL of the request for a 4 foot 6 inch variance from the five foot side setback with an Alternate Recommendation for a two foot variance from the five foot side setback to allow a carport three feet from the side property line**, based on the following findings of fact:

4. The request detracts from the character of the district as there are no other carports built almost directly on the front property line; and
5. The request presents overcrowding in the front yard; and
6. The request does not meet the Clear Vision requirement.