



# City of San Antonio

## Agenda Memorandum

**File Number:**18-1259

**Agenda Item Number:** 10.

**Agenda Date:** 1/8/2018

**In Control:** Board of Adjustment

Case Number: A-18-002  
Applicant: Roi Biton  
Owner: Promised Land Investments Properties LLC  
Council District: 5  
Location: 210 Furnish Avenue  
Legal: Lot 18, NCB 2874  
Description:  
Zoning: "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District  
Case Manager: Debora Gonzalez, Senior Planner

### Request

A request for a four foot variance from the five foot side yard setback, as described in Section 35-310.01, to permit a carport to be one foot from the side property line.

### Executive Summary

The subject property is located at 210 Furnish Avenue, approximately 103 feet northwest of Mockert Street. The applicant is seeking a variance to reduce the side setback for a carport from five feet to one foot. The carport features a large slope with should mitigate rainwater runoff concerns. However, staff is concerned that there is not enough room for maintenance of the structure without trespass.

| Existing Zoning  | Existing Use           |
|--|------------------------|
| "R-5 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-5 AHOD" Residential Single-Family Airport Hazard Overlay District | Single-Family Dwelling |
| East  | "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District | Single-Family Dwelling |
| West  | "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District | Single-Family Dwelling |

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

The subject property is within the boundaries of the Lone Star Community Plan and is currently designated Low Density Residential in the future land use component of the plan. The subject property is located within the boundaries of the Collins Garden registered 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 represented by setbacks to ensure safe development within the City of San Antonio. The applicant's request to reduce the side setback to one foot is contrary to the public interest in that it fails to provide adequate room for long-term maintenance of the structure.

**Staff recommends an alternate variance to allow the carport to be three feet from the side property line. This alternative would satisfy the applicant's need for a carport, and would provide space to maintain the structure.**

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

Staff is unable to establish any special condition that warrants reducing the setback by 80 percent. Had the applicant applied for a permit, staff could have advised alternative designs that met the code, or required a lesser variance.

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. Staff finds that the request fails to meet the intent of the code as the carport provides no room for adequate maintenance of the structure.

**Staff finds that an alternate request to allow the carport to be three feet from the side property line does observe the intent of the code as it provides for adequate space for maintenance of the structure.**

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-5 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.*

While the carport is designed such that rainwater runoff is not a concern, the structure is still located too near the shared property line. Setbacks provide fair and equal access to air and light, and staff finds that the carport, as designed, could present a negative impact on the adjacent property owner.

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 finds that variance request is likely financial in nature. Had the applicant sought a permit, they would have been advised on alternative designs that either met the setback, or met the intent of the setback.

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

Staff recommends approval of an alternate variance to allow the carport to be three feet from the side property line.

### **Staff Recommendation**

Staff recommends **DENIAL with an alternate recommendation of the requested variance in A-18-002** based on the following findings of fact:

1. The carport, as constructed, fails to provide adequate room for maintenance; and
2. A three foot side setback would still allow enough space for a carport and would provide adequate room to maintain it.