



# City of San Antonio

## Agenda Memorandum

**File Number:**18-2865

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**Agenda Item Number:** 6.

**Agenda Date:** 4/16/2018

**In Control:** Board of Adjustment

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**Case Number:** A-18-070  
**Applicant:** Tranquilino Villalobos  
**Owner:** Tranquilino Villalobos  
**Council District:** 1  
**Location:** 567 Marchmont Lane  
**Legal:** Lot 1, Block 9, NCB 10958  
**Description:**  
**Zoning:** "R-4 AHOD" Residential Single-Family Airport Hazard  
Overlay District  
**Case Manager:** Dominic Silva, Planner

### Request

A request for 1) a 14 foot and 11 inch variance from the 20 foot rear setback, as described in Section 35-310.01, to allow an attached carport to be located 5 feet and one inch from the rear property line, 2) a four foot and eleven inch variance from the five foot side setback to allow an attached carport to be one inch from the side property line, and 3) a variance from the restriction against the use of corrugated metal as a fencing material, as described in Section 35-514, to allow for the use of corrugated metal for fencing.

### Executive Summary

The subject property is located at 567 Marchmont Lane at the corner intersection with Buckeye Avenue, approximately 308 feet from Dryden Road. Code enforcement initiated this case on March 12<sup>th</sup>, 2018. The applicant is requesting to keep a carport built without permits within the rear and side property setbacks. An alley is present behind the property. The applicant has also made use of corrugated metal as a fencing material - a prohibited material as described in the Unified Development Code.

### Subject Property Zoning/Land Use

| Existing Zoning   | Existing Use           |
|---|------------------------|
| "R-4 AHOD" Single-Family Airport Hazard<br>Overlay District | Single-Family Dwelling |

### Surrounding Zoning/Land Use

| <b>Orientation</b> | <b>Existing Zoning District(s)</b>                       | <b>Existing Use</b>    |
|--------------------|--|------------------------|
| North              | “R-4 AHOD” Single-Family Airport Hazard Overlay District | Single-Family Dwelling |
| South              | “R-4 AHOD” Single-Family Airport Hazard Overlay District | Single-Family Dwelling |
| East               | “R-4 AHOD” Single-Family Airport Hazard Overlay District | Single-Family Dwelling |
| West               | “R-4 AHOD” Single-Family Airport Hazard Overlay District | Single-Family Dwelling |

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

The property is within the boundaries of the Greater Dellview Area Community Plan and is currently designated Low Density Residential in the future land use component of the plan. The subject property is within the North Central 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 variances are contrary to the public interest as the structures limit room for maintenance, create water runoff on adjacent properties, and much of the rear yard of the property is overbuilt. The corrugated metal fence is inconsistent with the neighborhood design and the material is immediately noticeable from the street, further, this type of material can be dangerous.

**Staff would support a modified request to allow the carport to be three feet from the side property line and staff supports the rear setback variance request to allow the carport five feet and one inch from the rear property line due to an existing alley way.**

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

Staff cannot find any special conditions that, if enforced literally, would result in any unnecessary hardship. The property already has a carport installed, and no special condition is present to warrant the second carport beyond the side and rear setback. Staff is also unable to find any property-related special condition that allows for sheet metal fencing on the property. As designed, the metal fence appears to surround the property for privacy. If a permit was sought, staff could have advised on other approaches to achieve a similar result.

**Staff finds that the modification of the new carport to be three feet from the side property line and supports the rear setback variance request to allow the carport five feet one inch from the rear property line would be in line with the existing carport and limit any other hardships to the owner.**

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. The intent of the setback limitation is to prevent fire spread, allow adequate space for maintenance, and encourage proper storm water drainage. With the addition of another carport on top of an existing carport that is attached to the principal structure, the chances of fire spread are increased. Granting the requested variance for the fence will not result in substantial justice because the fence, as designed, is out of place within this residential community.

**Modifying the carport to be three feet from the side property line would provide fair and equal access to air and light, while providing for adequate fire separation.**

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-4 AHOD” 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.*

Both the carport and corrugated metal fence is noticeably out of character within this community. The fence dominates the façade of the home while the carports dominate the rear making it the most distinguished features of the property. Staff finds both the fence and carport detract from the essential character of the community.

**Staff recommendation of three feet from the side property line and five feet one inch from the rear property line would alleviate concerns of injuring the appropriate use of adjacent conforming properties while also eliminating the hardship of dismantling the carport altogether.**

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 did not find any unique circumstances that warrant the granting of the requested variances. Had the applicant have applied for a permit, staff could have assisted with an alternative design that benefits the applicant and the community.

**Staff supports the carport placement with reduced setbacks of three feet from the side property line and five feet one inch from the rear property line that would alleviate concerns of storm water runoff, fire spread, and maintenance of the structure.**

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

Denial of the variance request would result in the owner having to meet the required side and rear setback and adhere to Section 35-310.01.

### **Staff Recommendation**

Staff recommends **APPROVAL** of the rear setback variance of 14 feet and 11 inches and **DENIAL** with an **Alternate Recommendation** of a two foot variance to from the side yard setback of the requested variances in **A-18-070**, based on the following findings of fact:

1. There are no special conditions present to warrant the granting of the requested variance for the corrugated metal fence material, and;
2. Due to the existence of the initial carport on the property, there are no special conditions present to warrant setback relief for the second carport built on top of the first, and;
3. Staff recommends an alternate of the carport setback variance to be three feet from the side property line and five feet and one inch from the rear property line.