



# City of San Antonio

## Agenda Memorandum

**File Number:**18-3990

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**Agenda Item Number:** 3.

**Agenda Date:** 6/18/2018

**In Control:** Board of Adjustment

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**Case Number:** A-18-091  
**Applicant:** Esteban Granados  
**Owner:** Esteban Granados  
**Council District:** 5  
**Location:** 309 Landa Avenue  
**Legal:** Lot 30 & 31, Block 6, NCB 8263  
**Description:**  
**Zoning:** "R-4 AHOD" Residential Single-Family Airport Hazard  
Overlay District  
**Case Manager:** Debora Gonzalez, Senior Planner

### **Request**

A request for 1) 4'11" variance from the 5' side setback, as described in Section 35-370, to allow a carport to be 1" from the side property line, and 2) a special exception to allow a 7' tall open screen fence in the front yard, as described in Section 35-514.

### **Executive Summary**

The subject property is located at 309 Landa Avenue, approximately 150 feet West of Knoke Street. The applicant is seeking a variance to reduce the side setback for a carport from five feet to one inch. The applicant is proposing to build an attached metal carport to be one inch from the side property line shared with another home. The carport will feature a slope towards the front of the property to mitigate rainwater runoff concerns. During field visits staff noticed a 7 foot tall wrought iron fence in the front yard of the subject property, built without permits. However, the applicant did apply and obtained a permit to build a 5 foot tall wrought iron fence in the front yard of the subject property and built a 7 foot tall wrought iron fence in the front yard without a permit that allows for this height.

Existing Zoning	Existing Use
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“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
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### **Surrounding Zoning/Land Use**

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

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

The subject property is not within the boundaries of any plan and therefore has no future land use designation. The subject property is located within the boundaries of the Prospect Hill 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 inch 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 rear setback to one inch.

**The applicant could modify the proposed carport to have a three foot side setback.**

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 code is to provide for consistent development and to establish room for maintenance, and to reduce the threat of fire

spread. The requests to reduce the side setback do not observe the intent of the code.

**Staff supports a modified setback reduction to three feet, as it address these concerns.**

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-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.*

While other structures in the neighborhood enjoy reduced setbacks, staff cannot support a one inch side setback. It poses immediate risk to adjacent property and leaves no room for maintenance of the structure.

**The carport could be modified to allow carport structure at three feet, which provides adequate space and maintain the structure.**

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 is unable to determine a unique circumstances existing on the site. The carport should be designed in a manner that respects the intent of the code.

**A 3’ side setback provides room for maintenance, allows increased space for drainage, and provides adequate fire separation distance.**

### **Criteria for Review**

According to Section 35-482(h) of the UDC, in order for a special exception to be granted, the Board of Adjustment must find that the request meets each of the five following conditions:

- A. *The special exception will be in harmony with the spirit and purpose of the chapter.*

The spirit of the chapter is intended to provide for reasonable protections to property owners and to establish a sense of community within our neighborhoods. The applicant had obtained a fence permit for a 5 foot tall fence but built a 7 foot tall wrought iron fence in the front yard. While there are similar fences nearby, only this property owner obtained a permit for a fence, and then proceeded to build outside the scope of the permit. While there are similar fences nearby, all are open to future Code Enforcement investigation. Staff finds that this request is not in harmony with the spirit and purpose of the chapter

- B. *The public welfare and convenience will be substantially served.*

Staff is unable to establish how the public welfare is served by the addition of a 7 foot tall fence in the front yard.

- C. *The neighboring property will not be substantially injured by such proposed use.*

A seven foot tall fence does not observe the intent of the code.

*D. The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought.*

The property is located within the “R-4 AHOD” Residential Single-Family Airport Hazard Overlay District and permits the current use of a single-family home. The fencing regulations are established to ensure consistency within our communities, and it is difficult to establish how granting the requested special exceptions will not weaken that purpose.

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

The alternative to the applicant’s request would be to adhere to the accessory structure setback regulations in section 35-370.

The alternative to the applicant’s request would be to adhere to the fencing regulations in section 35-514.

### **Staff Recommendation**

Staff recommends **DENIAL** of the variance request with an **ALTERNATE RECOMMENDATION for a two foot variance to allow a three foot side setback** in **A-18-091** based on the following findings of fact:

1. The carport is contrary to the public interest in that it fails to adequate fire separation distances; and;
2. A three foot side setback would address these development concerns.

Staff recommends **DENIAL** of the special exception request **in A-18-091** based on the following findings of fact:

1. The request does not observe the spirit of the ordinance.