



# City of San Antonio

## Agenda Memorandum

**File Number:**18-4118

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**Agenda Item Number:** 3.

**Agenda Date:** 7/2/2018

**In Control:** Board of Adjustment

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Case Number: A-18-093  
Applicant: Rodolfo Barron  
Owner: Rodolfo Barron  
Council District: 7  
Location: 7214 Cool Creek Drive  
Legal: Lot 32, Block 2, NCB 18648  
Description:  
Zoning: "R-6 AHOD" Residential Single-Family Airport Hazard  
Overlay District  
Case Manager: Dominic Silva, Planner

### **Request**

A request for a 4'11" variance from the 5' side setback, as described in Section 35-310.01, to allow an attached carport to be located 1" from the side property line.

### **Executive Summary**

The subject property is located at 7214 Cool Creek Drive approximately 265' west of Timberhill Drive. Code Enforcement initiated this case on April 3<sup>rd</sup>, 2018 due to setback violations. Later that day, the owner attempted to remediate the violation by applying for a permit.

### **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
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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	Single-Family Dwelling

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

The property is within the boundaries of the Northwest Community Plan and is currently designated Low Density Residential in the future land use component of the plan. The subject property is not within any 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 variance is contrary to the public interest as the structure limits room for maintenance, and directs water runoff onto adjoining properties.

**Staff would support a modified request to allow the carport to be 3' from the side property to limit any potential storm water runoff onto adjoining properties, and adhere to fire separation and fire rating.**

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 front property has ample enough room for a large two-space carport; the owner has the option to move the carport east, further from the adjoining property. Staff is unable to find any property-related special condition that warrants the two-space carport to be as close to the side property as it currently stands. 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 3' feet from the side property line limits any other hardships to the owner while also eliminating any hardships to the conforming adjoining properties.**

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. The two-space carport, as it stands now, has no storm water controls, and is built entirely of

wood which, by allowing the structure to remain 1” from the side property line, increases the chance of fire spread.

**Modifying the carport to be 3’ feet from the side property line would provide fair and equal access to air, light, and proper storm water controls, while also 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-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 carport is noticeably out of character within this community. The two-space carport dominates the front property, making it the most distinguished feature of the property. Staff, however, realizes some merit is deserved given the amount of carports on Cool Creek Drive.

**Staff’s recommendation of a 3’ setback from the side property line would alleviate the concern 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 variance. 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 a reduced setback of 3’ from the side 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 setback and adhere to Section 35-310.01.

### **Staff Recommendation**

Staff recommends **DENIAL** of the 4’11” variance from the 5’ side setback with an **Alternate Recommendation** of a 2’ variance from the 5’ side setback in **A-18-093**, based on the following findings of fact:

1. Staff recommends an alternate of the carport setback variance to be 3’ feet from the side property line and;
2. Due to the space available for such a large carport, there are no special conditions present to warrant setback relief to be as close to the side property line as it currently stands.

