



# City of San Antonio

## Agenda Memorandum

**File Number:**19-8080

---

**Agenda Item Number:** 6.

**Agenda Date:** 11/4/2019

**In Control:** Board of Adjustment

---

Case Number: BOA-19-10300128  
Applicant: Patrick Christensen  
Owner: Daniel Eason  
Council District: 10  
Location: 7801 Broadway St  
Legal: E IRR 255.6 ft of 4, Block 3, NCB 11891  
Description:  
Zoning: "O-2 AHOD" High-Rise Office Airport Hazard Overlay  
District  
Case Manager: Rachel Smith, Planner

### **Request**

A request for a variance of 3'8" from the 5' rear setback requirement described in section 35-370 to allow a detached carport to be 1'4" from the rear property line.

### **Executive Summary**

The applicant is seeking a rear setback variance to allow a reconstructed carport to be retained in place within the 5' rear setback. Per the applicant, the previous carport was destroyed by a tornado in 2016; the previous carport had been in place since 1990. The applicant rebuilt the carport in the same footprint of the destroyed carport. On July 2, 2019, a code investigator noticed the carport built without permits. The new carport has a steel structure with a canvas roof.

### **Zoning History**

The subject property was annexed on September 25, 1952 by Ordinance 18115 to "E" Office district. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 3, 2001, the "E" Office District was converted to the current "O-2" High Rise Office district.

### **Code Enforcement History**

7/2/2019: Carport built without permit

### **Permit History**

No permit was filed for the carport; the applicant is seeking the variance to apply for the permit for the existing

carport.

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

Existing Zoning	Existing Use
“O-2 AHOD” High-Rise Office Airport Hazard Overlay District	Office

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

Orientation	Existing Zoning District(s)	Existing Use
North	“O-2 AHOD” High-Rise Office Airport Hazard Overlay District	Office
South	“RM-4” Residential Single-Family “MF-33” High Density Residential	Apartment buildings
East	“R-5” Residential Single-Family	Elementary School
West	“R-5” Residential Single-Family	Single family dwelling

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

The subject property is designated as a Neighborhood Commercial in the future land use element of the San Antonio International Airport Vicinity Plan. This property is not within the boundaries of a neighborhood association.

### **Street Classification**

Broadway Street is classified as a Secondary Arterial street.

### **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 not contrary to the public interest. The original carport has been in the same location since 1990 with no registered complaints and the new carport is within the original footprint.**

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

**The new carport is built within the same footprint as the original carport that was damaged beyond repair due to inclement weather in 2016. Literal enforcement of the ordinance would result in the applicant removing that portion of the carport that extends beyond the rear setback, leaving the carport unusable in its current format due to space limitations.**

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 new carport is not overwhelming in size and follows the same footprint as the original carport that was built prior to 1990 with no registered complaints. Additionally, the carport is built of metal posts and canvas with no overhang.**

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 by the “O-2” High Rise Office zoning 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 not noticeably out of character within the district in which it is located. The previous carport had been in place for over 20 years with no complaints. The district is characterized by commercial, multi-family and single-family dwellings. The variance requested will not substantially injure the appropriate uses of adjacent conforming properties or alter the character of the district.**

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.*

**The variance being sought is due the reconstruction of a carport that was destroyed by a tornado in 2016. The new carport follows the same footprint as the previous and is made entirely of metal. The unique circumstances were not created by the owner and are not merely financial in nature, and are not due to or the result of general conditions in the district.**

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

The alternative to the applicant’s request is to conform to the setback limitations established by the Unified Development Code Section 35-310.01.

### **Staff Recommendation**

Staff recommends **APPROVAL** of the variance in **BOA-19-10300128**, based on the following findings of fact:

1. The reconstructed carport is in the footprint of the original which was destroyed by a natural disaster, and;
2. The carport does not detract from the character of the neighborhood, and;
3. The carport does not injure the appropriate use of adjacent conforming property.