



# City of San Antonio

## Agenda Memorandum

**File Number:**19-8927

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**Agenda Item Number:** 9.

**Agenda Date:** 12/2/2019

**In Control:** Board of Adjustment

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Case Number: BOA-19-10300137  
Applicant: Dominguez Octavio  
Owner: Dominguez Octavio  
Council District: 1  
Location: 1212 North Navidad Street  
Legal: The North 80 feet of Lot 14, NCB 2122  
Description:  
Zoning: "MF-33 AHOD" Multi-Family Airport Hazard Overlay District  
Case Manager: Debora Gonzalez, Senior Planner

### **Request**

A request for 1) a 9' variance from the 10' front setback, as described in Section 35-370, to allow an attached carport to be 1' from the front property line, 2) 3'7" variance from the 5' side setback requirement, as described in Section 35-370, to allow an attached carport to be 1'5" from the side property line, and 3) an 18' variance from the 20' rear setback requirement, as described in Section 35-370, to allow an attached carport to be 2' from the rear property line.

### **Executive Summary**

The applicant is seeking a variance to finish building an attached carport made out of wood. The house was built in 1924 without a garage in a compact lot 4,880 square feet with only 61 feet in depth. The house was also built 2' from the rear property line. The neighborhood has multiple similar carports encroaching into the front and side setbacks.

### **Code Enforcement History**

No Code Enforcement history.

### **Permit History**

The applicant is waiting for variance to be approved to obtain a carport permit.

### **Zoning History**

The subject property is in the original 36 square miles of San Antonio and in 1938 was zoned “C” Apartment District. In 1965, it was then rezoned to “R-3” Multiple Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “R-3” Multiple Family Residence District converted to the current “MF-33 AHOD” Multi-Family.

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

Existing Zoning	Existing Use
“MF-33 AHOD” Multi-Family Airport Hazard Overlay District	Single-Family Dwelling

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

Orientation	Existing Zoning District(s)	Existing Use
North	“MF-33 AHOD” Multi-Family Airport Hazard Overlay District	Single-Family Dwelling
South	“MF-33 AHOD” Multi-Family Airport Hazard Overlay District	Single-Family Dwelling
East	“MF-33 AHOD” Multi-Family Airport Hazard Overlay District	Single-Family Dwelling
West	“MF-33 AHOD” Multi-Family Airport Hazard Overlay District	Single-Family Dwelling

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

The subject property is located within the boundaries of the West End Hope in Action Neighborhood Association. As such, they were notified and asked to comment.

### **Street Classification**

Navidad is classified as a Minor 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 served by setbacks, which help to provide consistent development within the City of San Antonio. The applicant is seeking variances to allow the carport to be 1’ from the front property line, 2’ from the rear property line and 1’5” from the side property line. The requested setbacks fail to provide adequate fire separation distance, provide no room for maintenance, and may drain water onto adjacent property. Staff finds

that the carport, as proposed, is contrary to the public interest.

**Staff supports reducing the side setbacks to 2', which would provide adequate room for maintenance and would provide better separation for fire spread and rainwater runoff.**

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 front and rear setback.

**The applicant could modify the proposed carport to have a 2' side setback and meet the front and rear setback requirement.**

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 front and rear setbacks do not observe the intent of the code.

**Staff supports a modified setback reduction to 2' side setback, as it addresses these concerns.**

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 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.*

While other structures in the neighborhood enjoy reduced setbacks, staff cannot support a 1' from the front property line, 2' from the rear property line and 1'5" from the side property line. They all pose immediate risk to adjacent property and leave no room for maintenance of the structure.

**The carport could be modified to allow carport structure at 2' side setback.**

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.**

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

Denial of the variance request would result in the owner having to meet the required side, rear and front setback adhering to Section 35-370.

### **Staff Recommendation**

Staff recommends **DENIAL** of 1) a 9' variance from the 10' front setback to allow an attached carport to be 1'

from the front setback, 2) 3'7" variance from the 5' side setback requirement to allow an attached carport to be 1'5" from the side setback, and 3) an 18' variance from the 20' rear setback requirement to allow an attached carport to be 2' from the rear property line, and an **Alternate Recommendation** of 2) a 3' variance from the 5'side setback requirement to allow an attached carport to be 2' from the side property line in **BOA-19-10300137**, based on the following findings of fact:

1. There are no special conditions present to warrant the granting of the requested variances, and;
2. Staff recommends an alternate of the carport setback variance to be 2' from the side property line to mitigate storm water runoff and adequately prevent fire spread.