



# City of San Antonio

## Agenda Memorandum

**File Number:**20-2476

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**Agenda Item Number:** 6.

**Agenda Date:** 3/16/2020

**In Control:** Board of Adjustment

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**Case Number:** BOA-20-10300022  
**Applicant:** William Faught  
**Owner:** William Faught  
**Council District:** 10  
**Location:** 126 Oak Glen Dr, San Antonio, 78209  
**Legal:** Lot 10, Block 13, NCB 11813  
**Description:**  
**Zoning:** "NP-10" Residential Single-Family Neighborhood  
Preservation District  
**Case Manager:** Justin Malone, Planner

### **Request**

A request for a 4' variance from the 5' side setback requirement, as described in Section 35-516, to allow a detached carport to be 1' away from the side property line.

### **Executive Summary**

The subject property is located at the corner of Oak Glen and Haskin Drive, approximately 2,100 feet from the intersection of Haskin Drive and NE Loop 410 and approximately 3,400 feet from the intersection of Five Oaks Drive and Harry Wurzbach. Code Enforcement gave a violation notice on January 31, 2020 and stop work order on carport until permit was pulled. The applicant told Code Enforcement they will obtain a permit, but no permit to date.

The applicant stated that the only aspect changing regarding the carport is the cover and that the location will not be adjusted at all from the former carport. Applicant states that the overhang will be trimmed and gutters will be installed to protect the neighbor's property. The applicant states that the new carport will be more visually appealing than the former one and congruous with the home and neighborhood. During site visits, Staff noted that the carport is 1 foot from the neighboring property line.

The area is characterized by wide single family lots, with a mixture of garages and carports

### **Code Enforcement History**

Code Enforcement advised applicant to stop work on carport on January 31, 2019 and obtain a building permit.

### **Permit History**

No building permits for carport found on file.

### **Zoning History**

The subject property was annexed by Ordinance 18115 dated September 25, 1952 and zoned “A” Temporary Residence District. Under the adoption of the 2001 Unified Development Code, Ordinance 93881 dated May 3, 2001, the “A” Temporary Residence zoning district converted to “R-5” Residential Single-Family District. In 2006, the subject area was rezoned from “R-5” Residential Single Family District to “NP-10” Neighborhood Preservation District by Ordinance 2006-06-15-0728.

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

Existing Zoning	Existing Use
“NP-10” Residential Single-Family Neighborhood Preservation District	Single-Family Dwelling

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

Orientation	Existing Zoning District(s)	Existing Use
North	“NP-10” Residential Single-Family Neighborhood Preservation District	Single-Family Dwelling
South	“NP-10” Residential Single-Family Neighborhood Preservation District	Single-Family Dwelling
East	“NP-10” Residential Single-Family Neighborhood Preservation District	Single-Family Dwelling
West	“NP-10” Residential Single-Family Neighborhood Preservation District	Single-Family Dwelling

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

The subject property is within the boundaries of the Northeast Inner Loop Community Plan and currently designated as “Low Density Residential” in the future land use component of the plan. The subject property is located within the boundaries of the Oak Park- Northwood 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

variance is 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 a variance to allow the carport to be one foot from the side property line. One foot setback fails to provide adequate fire separation distances, provides no room for maintenance, and may drain water onto adjacent property. Staff finds that the carport, as built, is contrary to the public interest.

**Staff supports reducing the side setbacks to three feet, 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 cannot find any special conditions that, if enforced literally, would result in any unnecessary hardship. The applicant can make use of the carport, and no special condition is present to warrant a carport of this placement. A permit was never sought and no inspections were finalized, which would have prevented violation of the side setback.

**The applicant could modify the 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 setback limitation is to prevent fire spread, allow adequate space for maintenance, and encourage proper storm water drainage. 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 can address 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 by the “NP-10” Residential Single-Family Neighborhood Conservation 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 foot 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 would address the concerns related to maintenance and drainage.**

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 unique circumstances existing on the site. The carport should be designed in a

manner that respects the intent of the code.

**The applicant could increase the setback to three feet and still have a carport large enough to serve its purpose without any immediate threat of water runoff or fire spread on adjacent properties.**

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

Denial of the variance request and special exception would result in the owner having to meet the required carports setback regulations in Section 35-516.

### **Staff Recommendation**

Staff recommends **DENIAL** of the variance requests with an **ALTERNATE RECOMMENDATION to be 3' away from the side property line** in **BOA-20-10300022** based on the following findings of fact:

1. The carport is contrary to the public interest in that it fails to provide room for maintenance, may drain water onto adjacent property, and may increase the threat of fire spread, and;
2. A three foot side setback would address these development concerns.