



# City of San Antonio

## Agenda Memorandum

**File Number:**15-3165

**Agenda Item Number:** 7.

**Agenda Date:** 5/18/2015

**In Control:** Board of Adjustment

**Case Number:** A-15-085  
**Applicant:** Karla & Cesar Lopez  
**Owner:** Karla & Cesar Lopez  
**Council District:** 5  
**Location:** 251 Paramount Avenue  
**Legal Description:** Lot 15, Block 10, NCB 7478  
**Zoning:** "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District  
**Case Manager:** Logan Sparrow, Planner

### **Request**

A request for the elimination of the required five foot side yard setback, as described in Section 35-310.01, to allow an existing carport to remain on the side property line.

### **Executive Summary**

The subject property is located at 251 Paramount Avenue approximately 50 feet east of NW 34<sup>th</sup> Street. The applicant is seeking variance to allow an existing carport to remain along the side property line. The carport is made, primarily, of wood with some metal elements. As such, the carport poses a fire risk to adjacent properties which are located very near the structure. Additionally, wood carports require maintenance more frequently than metal carports, and, being located on the property line, may require trespass to maintain.

### **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
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-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

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

The property is within the boundaries of the West/Southwest Sector Plan and designated General Urban in the land use component of the plan. The subject property is located within the boundaries of the Memorial Heights registered neighborhood association. As such, the neighborhood association was 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 carport is of wooden construction, and located on the property line, only three feet from the adjacent property, being a single-family home. Adjacent properties experience a heightened fire risk as a result of this carport construction. Also, the carport located along the property line so near the adjacent home compromises equal access to air and light. Staff finds that the request is contrary to the public interest.

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

Staff is unable to establish a special condition on the subject property that would warrant the elimination of the side yard setback.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

Granting the requested variance would result in compromised safety for adjacent properties. This will not result in substantial justice, nor would be spirit of the ordinance be observed.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*

The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted 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.*

As the carport is made of wood, and thus poses a heightened fire risk, staff finds that adjacent properties could be harmed by the request as the nearest structure, being a single-family home, is located only three feet from the existing carport.

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 was unable to determine any unique circumstances that would warrant the granting of the requested variance.

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

The applicant would need to remove five feet of the carport to come into compliance with the Unified Development Code.

Staff recommends **DENIAL of A-15-085** based on the following findings of fact:

1. The existing carport poses an increased risk of fire to adjacent properties;
2. The existing carport compromises fair and equal access to air and light.