



# City of San Antonio

## Agenda Memorandum

**File Number:**15-3200

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**Agenda Item Number:** 8.

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

**In Control:** Board of Adjustment

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**Case Number:** A-15-086  
**Applicant:** Felipe Chapa  
**Owner:** Felipe Chapa  
**Council District:** 1  
**Location:** 1611 Alhambra Street  
**Legal Description:** W 25 ft of Lot 13 & E 37.5 ft of Lot 14, Block 176, NCB 9088  
**Zoning:** "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District  
**Case Manager:** Margaret Pahl AICP, Senior Planner

### Request

A request for 1) an eight foot variance from the ten foot front setback requirement to allow a carport two feet from the front property line and 2) a two foot variance from the five foot side setback requirement both as shown on Table 35-310-1 to allow a carport three feet from the side property line.

### Executive Summary

The subject property is located in the Los Angeles Heights Subdivision, an 836 acre plat recorded in 1910 establishing a huge residential neighborhood between Blanco and West Avenues. The property is approximately 7,500 square feet with a home built in 1942. The applicants have lived in the home for 20 years. There are no front yard fences so the specific location of the side property line is not known. According to the submitted site plan, the carport is constructed 3 feet from the property line. In addition, the carport is also constructed within the minimum 10 foot front yard setback. The applicants have long had a carport over the driveway behind the front façade, but recently constructed this front yard "addition" and widened the driveway to provide additional covered parking. The carport is constructed with wood and has not been permitted or fire-rated. Code Enforcement cited the applicant for construction without a building permit. The enforcement action was not the result of a complaint; it was a proactive case. If the variance is granted, the applicant will have to submit plans for a building permit and retrofit the structure to comply with all building code requirements, including any fire-rating required.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
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“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
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### **Surrounding Zoning/Land Use**

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
South	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
East	“R-4 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 Greater Dellview Area Community Plan and designated Low Density Residential Land Use. The subject property is not located within the boundaries of a registered 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, these criteria are represented by minimum setbacks to protect equal access to air and light and provide fire separation. The applicant installed the wooden carport with 3 feet of the side property line, adequate to properly maintain it.**

The carport also protrudes into the minimum 10 foot front setback 2 feet from the front property line, according to the submitted site plan. The minimum front setback is important feature in urban design and there are no other structures this close to the front sidewalk. Therefore, the variance from the front setback is contrary to the public interest.

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

**Staff finds that the special condition present in this case is that the applicant constructed the carport not knowing that a building permit was required. Had the applicant sought a building permit, the setbacks could have been explained. Staff finds that the three foot side setback provides adequate room for long term maintenance and that a literal enforcement of the ordinance would result in an unnecessary hardship to increase the distance to 5 feet.**

The carport is built only 2 feet from the front property line, resulting in a structure very close to the sidewalk. With the driveway running nearly the entire length of the lot, there is adequate room for covered parking without the front variance. Therefore, a literal enforcement of the minimum front setback does not result in an unnecessary hardship.

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

**The ordinance requires setbacks to allow for long term maintenance without trespass and fire separation. The spirit of the ordinance is observed when the setback provided is adequate to accomplish these goals in a smaller area. The three feet on the side, though it is heavily vegetated, allows room to maintain the carport. Fire separation methods will be required during permitting to reduce the threat of fire.**

A minimum front setback is required in every residential zoning district and has been respected by residential development patterns for centuries. The requested front variance does not honor the spirit of the ordinance.

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-4 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.*

**Carports are often found over driveways and close to property lines. Recent fire prevention codes updates have become more restrictive on structures closer than 5 feet to a property line. As such, this structure will require some retrofitting to increase fire resistance.**

The front setback however does have a negative impact on the streetscape protruding out to within 2 feet of the property line. Vegetation along the property line has some mitigating effect on the views from the street, however a variance to allow a structure with this proximity to the street would have a detrimental impact 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 unique circumstance present on the side setback is that the structure maintains a greater than 15 foot separation from the neighboring home, and will eventually include fire retardation construction.**

There are no unique circumstances to support the minimal front setback.

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

The applicant needs to reduce the carport length and width to come into compliance with the Unified Development Code.

### **Staff Recommendation**

Staff recommends **APPROVAL** of the side setback variance of A-15-086 based on the following findings of fact:

1. There is adequate space to maintain the carport without trespass and fire retardant methods will be used to add fire protection;

Staff recommends **DENIAL of the front setback variance of A-15-086** based on the following findings of fact:

1. The carport is within 2 feet of the front property line, intruding into the minimum front setback.