



# City of San Antonio

## Agenda Memorandum

**File Number:**15-3983

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**Agenda Item Number:** 7.

**Agenda Date:** 7/6/2015

**In Control:** Board of Adjustment

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**Case Number:** A-15-110  
**Applicant:** Carolina Martinez  
**Owner:** Carolina Martinez  
**Council District:** 1  
**Location:** 1610 La Manda  
**Legal Description:** Lot 8, Block 196, NCB 8932  
**Zoning:** "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District  
**Prepared By:** Margaret Pahl, AICP, Senior Planner

### Request

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

### Executive Summary

The subject property is located in the Los Angeles Heights neighborhood and is a home built in 1941, according to Bexar County records. The applicant purchased the home just a year ago. The carport and re-roof were built without permits in 2012, according to the original code violation records created at that time. The carport roof is integral to the home roof as a result of this original construction in 2012. The previous owner refused to resolve the code enforcement issue and apparently sold the property instead. The carport is built along the side property line and is wired with electricity as evidenced by the dome lighting on the ceiling. According to a survey submitted by the applicant, the driveway width is 10 feet 7 inches wide on this side of the property. The work is very attractive and enhances the property value, but will require some reconstruction to address fire separation concerns. As such, the applicant has met with the residential plan reviewers to investigate solutions should the Board grant the requested variance. Construction of a fire wall along the side lot line was one of the described solutions.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

### Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
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 currently designated as Low Density Residential in the future land use component of the plan. 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 setback requirements to reduce the threat of fire. Having a wooden structure with electric wiring on the side property line does create conditions by which fire could more rapidly spread to adjacent structures. **However, due to the age of this neighborhood, carports are common, with at least 5 other similar carports on this block. If the requested variance is approved, the applicant will submit plans to provide the required fire separation.**

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

The special condition present on the subject property is that the applicant inherited the problem from a previous owner who wasn't the seller. The applicant purchased the property from an individual who owned the property for less than six months. **The applicant states that she is willing to add gutters to eliminate water runoff onto the neighbor's yard and address fire separation requirements. Therefore a literal enforcement may result in an unnecessary hardship.**

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

As a result of its wood construction, the structure poses an increased risk of fire to adjacent properties. The neighboring home is approximately 10 feet away from their side lot line, with their driveway access along this side yard. **The applicant was not informed of the carport setback violation prior to purchasing the home. Because the carport was integrated into the new roof design, the variance will observe 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.*

The neighborhood is a moderate income area with an eclectic variety of housing styles and conditions. **Several homes on this block, including one adjacent and one across the street also have carports built on the property line. This home is one of the most attractive homes in this neighborhood and therefore the variance would not alter the essential 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.*

Development Services' records indicate that the 2012 property owner was cited for construction without a permit for a new roof and carport. One year later, the records reflect no action by the homeowner. Similarly a year later, the records reflect a court date, but no further updates provided. **The applicant is working toward resolving this violation and will do whatever is required to solve the problem, even though it was not created by her.**

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

The applicant could remove three feet from the side of the carport to establish a three foot setback. This would help to protect adjacent property owners from fire risk.

### **Staff Recommendation**

Staff recommends **APPROVAL of the variance in A-15-110** based on the following findings of fact:

1. The existing carport construction was integrated into the roof, making it very difficult to adjust.
2. The carport in its current location is not out of character within the community.