



# City of San Antonio

## Agenda Memorandum

**File Number:**15-4099

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**Agenda Item Number:** 5.

**Agenda Date:** 7/20/2015

**In Control:** Board of Adjustment

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**Case Number:** A-15-116  
**Applicant:** Todd & Deborah Goodwin  
**Owner:** Todd & Deborah Goodwin  
**Council District:** 7  
**Location:** 9203 Proclamation Drive  
**Legal Description:** Lot 20, Block 11, NCB 17415  
**Zoning:** "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District  
**Prepared By:** Logan Sparrow, Senior Planner

### **Request**

A request for 1) the elimination of the required five foot side setback, as described in Section 35-310.01, to allow a carport along the side property line and 2) a two and a half foot variance from the maximum six foot rear yard fence height, to allow a privacy fence eight and a half feet tall along the south property line in the rear yard of the yard, when measured from ground elevation.

### **Executive Summary**

The subject property is located at 9203 Proclamation Drive, approximately 116 feet east of Fishers Hill Drive. The applicant built the existing carport, without permits, three years ago and has been cited by Code Enforcement for building without a permit and for a violation of the side setback requirement. The carport is built along the side property line and, thus, the applicant is seeking the elimination of the required five foot side yard setback. During field visits, staff also noticed that the property has an eight and a half foot tall fence along that portion of the side yard where the carport is located. The wooden privacy slats are six feet tall, but located on top of a large concrete slab that does not act as a retaining wall.

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

Existing Zoning	Existing Use
"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

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

Orientation	Existing Zoning District(s)	Existing Use
North	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
South	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
East	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwellings
West	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

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

The property is within the boundaries of the Huebner/Leon Creeks Community Plan and currently designated Low Density Residential in the future land use component of the plan. The subject property is not located within the boundaries of any 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 fence height limitations to protect property owners and also to encourage a sense of community. These criteria are further represented by setback requirements to ensure equal access to air and light and to reduce the threat of fire. The requested fence design is not contrary to the public interest in that the proposed fencing design, although for a portion of the yard located taller than the code allows, serves only to protect the car when parked under the carport. The rest of the property has a conforming six foot tall fence. The side setback is not contrary to the public interest because of its adjacency to a street. Lastly, there is a large right of way easement south of the subject property that offers the look of a respected setback.**

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

**The special condition present in this case is that the applicant is located on a corner lot and therefore the reduced side yard setback will not harm adjacent properties. Furthermore, the subdivision was platted with a generous right of way between the street and the applicant's property. As such, there is still a grassy area that offers the look of a respected setback. The portion of the fence that exceeds six feet is only located along the carport for increased protection of the cars. Beyond the carport, the fencing is at a permitted height.**

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

**The spirit of the ordinance will be respected in that the applicant can continue to protect their vehicles from the elements. The carport and fence do not harm any adjacent properties as the property is a corner lot.**

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-5 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.*

**That proposed fence will not substantially injure adjacent properties. The carport contributes to increased protection of the vehicle. The structure is made of metal and, thus, poses little fire threat. The right of way offers the look of a respected setback and, therefore, does not negatively 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.*

**When the needs of the applicant’s family mandated an additional parking space, this portion of the property was identified as the most logical location. Because a carport in this location is not likely to harm any other properties, staff finds that there is reason to grant the requested variance. The plight of the owner of the property is not merely financial in nature.**

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

Denial of the variance request would result in the property owner needing to remove the carport and that portion of the fence exceeding six feet when measured from ground elevation.

### **Staff Recommendation**

Staff recommends **APPROVAL of the requested variances in A-15-116** based on the following findings of fact:

1. The property is a corner lot and, thus, the carport and fence are not likely to harm any persons.
2. The carport is made of metal and poses little fire risk.
3. There is a large right of way that still offers the look of a respected side setback and, therefore, does not negatively alter the essential character of the district.