



# City of San Antonio

## Agenda Memorandum

**File Number:**15-4893

**Agenda Item Number:** 7.

**Agenda Date:** 9/21/2015

**In Control:** Board of Adjustment

**Case Number:** A-15-139  
**Applicant:** Roberto Marquez  
**Owner:** Roberto Marquez  
**Council District:** 6  
**Location:** 6324 Les Harrison Drive  
**Legal Description:** Lot 13, Block 2, NCB 3856  
**Zoning:** "R-4" Residential Single-Family District  
**Case Manager:** Kristin Flores, Planner

### Request

A request for 1) the elimination of the 5 foot minimum side setback, as described in Table 35-301-1, to allow for the construction of a carport on the property line; 2) a variance to allow an increase of the maximum 50% impervious cover in the front yard, as described in Table 35-515-1.

### Executive Summary

The subject property is located at 6324 Les Harrison Drive approximately 180 feet south of Village Basin. The applicant wishes to build a carport, 13 feet wide, on the side of his house to accommodate a car and staging room for a person in a wheelchair to enter and exit the car. In order to accommodate a car travelling across the front yard to reach the proposed carport the applicant may require an increase in impervious cover in the front yard to create a driving path.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-4" Residential Single-Family District	Single Family Residence

### Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-4" Residential Single-Family District	Single Family Residence
South	"R-4" Residential Single-Family District	Single Family Residence
East	"R-4" Residential Single-Family District	Single Family Residence

West	"R-4" Residential Single-Family District	Single Family Residence
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### **Comprehensive Plan Consistency/Neighborhood Association**

The property is located within the boundaries of Northwest Neighborhood Plan and is designated as Low Density Residential in the future land use component of the plan. The subject property is located within the boundaries of the Hidden Meadow and is within 200 feet of the Great Northwest Neighborhood Association. As such, both neighborhood associations 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, these criteria are represented by minimum side setbacks to protect home owners, and also to provide for a sense of community. The minimum setbacks are in place to protect the neighbor from fire hazard and possible damage from water runoff.

The applicant wishes to build a 13 foot carport on the side of the home to accommodate a car and staging room for a person in a wheelchair. According to the Texas ADA Design Guidelines, handicap accessible parking spaces for cars must include, at minimum, an eight foot parking spot and an additional five feet for an accessible route for a total of a 13 foot parking space. However, if the applicant chooses to park a handicap accessible van beside the home the minimum space requirement, according to ADA design standards, is 16 feet comprised of an eight foot parking space and an eight foot accessible route. The proposed carport would meet the standard for parking a car, but the proposed carport does not meet the standard for parking a van.

**The proposed carport would only provide 5 feet of space between the neighboring structures. Structures located this close to one another increase the risk of fire and water runoff to adjacent properties. However, there are ways these issues can be mitigated. As the carport has not yet been built, these issues will be addressed before construction takes place to ensure the carport does not cause harm to the subject property or adjacent properties.**

Staff recommends denial of the increase to impervious cover in the front yard. The proposed increase will likely increase water runoff to adjacent properties. It is possible to construct a pathway of pervious cover to accommodate the proposed need.

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

**The special condition in this case is the sloped drive way. The current driveway, where most applicants plan to build a carport, slopes toward the street. The ADA design guidelines state handicap parking spaces can have a maximum slope of 1:50 or 2% grade change. Allowing the applicant to create a carport that meets the ADA design slope standard, where the current driveway does not, is a reasonable accommodation.**

The special condition for an increase in impervious cover is directly related to the variance to allow a carport to be located on the side property line. If the carport is permitted to be located on this side property line the applicant will need build a pathway to reach to carport. However, the proposed pathway does not need to be impervious. Pervious pavers or another pervious material could be used to provide a pathway to proposed carport.

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

done.

**Granting the requested side set back variance will result in substantial justice as the carport will provide appropriate accommodations for the residents of the home. In addition, as the proposed carport has not yet been built, design standards to address fire separation construction requirements and water runoff risk will be required.**

However, granting the requested variance for an increase of impervious cover in the front yard will not result in substantial justice. Unlike the possible design mitigations for the construction of carport, there are few ways to mitigate increased water runoff resulting from an increase in impervious cover. Additionally, staff was unable to find any homes in the neighborhood which exceed the maximum 50% of impervious cover.

*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” Residential Single-Family 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.*

**Staff is recommending approval of the request to eliminate the side setback to allow a carport to be built on the property line. The carport has not been constructed thus, if the variance is granted, the applicant will be required to build a carport with measures to mitigate water runoff and address fire separation construction requirements. Additionally, the large amount of foliage in the neighborhood and on the subject property is likely to block the view of the carport from the public right of way.**

The request to increase impervious cover in the front yard will likely increase water runoff to adjacent properties and could potentially cause harm. Additionally, staff was unable to locate any other homes in the neighborhood that exceed the maximum 50% impervious cover in the front yard. Thus allowing the applicant to increase the impervious cover in the front yard would be out of character for the neighborhood in which the property is located.

*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 presented in this case is the presence of a driveway which is unable to accommodate the needs of the handicap resident in the home. This is not a circumstance created by the applicant and is not merely financial. Providing an area for the applicant to construct a carport which meets ADA parking standards for slope and width is a reasonable accommodation for a resident who requires parking modifications.**

Staff was unable to determine any unique circumstances that would warrant the granting of the requested variance for the impervious cover to extend beyond the maximum of 50% in the front yard.

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

The applicant must build the carport to meet the five foot minimum set back, as described in Table 35-310.01

The applicant must not exceed the maximum 50% impervious cover in the front yard in the front yard, as described in Table 35-515-1.

## **Staff Recommendation**

Staff recommends **APPROVAL of the elimination of the side setback to allow a carport to be located on the property line in A-15-139** based on the following findings of fact:

1. The resident of the home is handicapped and currently has no place to park a car which meets ADA standards;
2. The carport has not been built thus proper measures can be taken to ensure mitigation of possible water runoff to adjacent properties and address fire separation construction requirements;
3. The large amount of foliage in the neighborhood and on the subject property is likely to block the view of the carport from the public right of way.

Staff recommends **DENIAL of the request to increase the maximum 50% impervious cover in the front yard in A-15-139** based on the following findings of fact:

1. There is likely to be an increase water runoff to adjacent properties and there are few ways to mitigate such an increase in water runoff;
2. Increasing impervious cover is not the only way to reach the desired outcome of creating the proposed pathway.
3. Staff was unable to locate any other homes in the neighborhood that exceed the maximum 50% impervious cover in the front yard thus an increase in impervious cover is not in keeping with the character of the community.

## **Attachments**

Attachment 1 - Notification Plan (Aerial Map)

Attachment 2 - Plot Plan (Aerial Map)

Attachment 3 - Site Plan

Attachment 4 - Site Photos