



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** September 9, 2024

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

**DEPARTMENT HEAD:** Amin Tohmaz, Interim Department Head

**CASE NUMBER:** BOA-24-10300152

**APPLICANT:** Jesse Avila

**OWNER:** Jesse and Mary Avila

**COUNCIL DISTRICT IMPACTED:** District 3

**LOCATION:** 211 Fairview Avenue

**LEGAL DESCRIPTION:** Lot 16, Block 2, NCB 3207

**ZONING:** "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District

**CASE MANAGER:** Melanie Clark, Planner

**A request for**

A 4'-11" variance from the minimum 5' side setback to allow a 1" carport side setback.  
Section 35-310.01 (Table 310-1)

**Executive Summary**

The subject property is located east of South Presa Street, west of South Hackberry Street, approximately 100' east of Devoto Street and Fairview Avenue Intersection. On June 8, 2024, Code Enforcement received a Citizen Call regarding a newly constructed carport on the subject property. During investigation, Code Enforcement determined that the carport was built without a permit. The investigation further determined that the carport did not comply with UDC setback regulations. The property owner is requesting a 4'-11" variance to allow a carport to be 1" from the eastern side setback. The property owner applied for a Building Permit June 12, 2024, pending approval from the Board of Adjustment.

**Code Enforcement History**

INV-PBP-24-3100003203 – Permit Investigation

**Permit History**

RES-RBP-APP24-35502801- Residential Building Permit Application

**Zoning History**

The subject property was part of the original 36 square miles of the City of San Antonio and zoned “B” Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property converted from “B” Residence District to “R-4” Residential Single-Family District.

**Subject Property Zoning/Land Use**

**Existing Zoning**

“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**Surrounding Property Zoning/ Land Use**

**North**

**Existing Zoning**

“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**South**

**Existing Zoning**

“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**East**

**Existing Zoning**

“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**West**

**Existing Zoning**

“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the South Central San Antonio Community Plan and is designated as “Low Density Residential” in the future land use component of the plan. The subject property is not located within the boundary of a registered neighborhood association.

### **Street Classification**

Fairview is classified as a local road.

### **Criteria for Review –Side Setback Variance**

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, the public interest is represented by adhering to setback requirements to provide adequate spacing between properties and right-of-way. The applicant is requesting a 1” side setback for an attached carport. The request is contrary to the public interest as a 1” side setback does not provide sufficient space between neighboring properties.

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

A literal enforcement of the ordinance would not result in an unnecessary hardship as support poles and overhang can be adjusted to meet UDC setback regulations.

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

The intent of the code is to provide distance between the proposed structure and property lines to ensure proper maintenance and separation can occur. The carport with a significantly reduced side setback will not observe the spirit of the ordinance.

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

No uses other than those allowed within the district will be allowed with this variance.

*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 finds the reduced side setback will alter the essential character of the district as the carport side setback does not provide an adequate distance from the property line causing increased risk for fire spread and water runoff onto the neighboring property.

*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 finds the plight of the owner of the property for which the variance is sought is not due to unique circumstances existing on the property, as the carport support poles, and overhang can be reconfigured to meet setback requirements and still provide vehicle coverage.

**Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the setback regulations of the UDC Section 35-310.01 (Table 310-1).

**Staff Recommendation – Side Setback Variance**

Staff recommends Denial in BOA-24-10300152 based on the following findings of fact:

1. The variance will alter essential character of the district as it does not provide an adequate distance from the established property line.
2. Will not observe the spirit of the ordinance as reduced side setback, increases risk of fire spread and water runoff onto the neighboring property.