

Case Number:	BOA-23-10300319
Applicant:	Jose Gallegos
Owner:	Felipe C. Aguirre
Council District:	1
Location:	138 Pilgrim Drive
Legal Description:	Lot 26, Block 25, NCB 10467
Zoning:	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District
Case Manager:	Bronte Frere, Planner

### **Request**

A request for 1) a 4’-9” variance from the minimum 5’ side setback as described in Section 35-370(b)(1), to allow a carport with a 1’-3” overhang to be 3” from the side property line and 2) a 9’ variance from the minimum 10’ front setback as described in Section 35-516 to allow a carport with 1’-5” overhang to be 1’ from the front property line.

### **Executive Summary**

The subject property is located on Pilgrim Drive in a neighborhood east of Vance Jackson and southeast of NW Loop 410. The constructed carport does not meet the setback requirements to the side and front of the property line. Upon site visits, staff found the carport constructed but unfinished. No other variances outside of the side and front setbacks outlined in this case were found to be necessary.

### **Code Enforcement History**

INV-PBP-23-3100002686 – PMT-Building Without A Permit – No Violation – August 2023

### **Permit History**

RES-CRT-PMT23-32200931 – Carport Permit – Active – June 2023

### **Zoning History**

The subject property was annexed into the City of San Antonio by Ordinance 18115, dated September 24, 1952, and zoned Temporary “B” Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “B” Residence District converted to the current “R-4” Residential Single-Family District.

### **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 Dwellings
South	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwellings

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

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

The subject property is in the Greater Dellview Area Community Plan and is designated as “Low Density Residential” in the future land use component of the plan. The subject property is located within the Dellview Area Neighborhood Association boundaries, and they have been notified of this request.

### **Street Classification**

Pilgrim Drive is classified as a local road.

### **Criteria for Review – Side and Front Setback Variances**

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. The public interest is represented by minimum side and front setback requirements between a structure and a property line. Staff finds the reduced side and front setbacks would be contrary to the public interest, as the carport would impose the risk of water runoff into the right of way or adjacent property.

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

Staff has found no special conditional that literal enforcement of the ordinance would cause an unnecessary hardship for the side and front setbacks requested, as the carport could be built with different dimensions that comply with the UDC setback requirements.

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

The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. The intent of the side and front setback requirements is to allow adequate space between a property’s structures and attempt to reduce its impact on nearby properties. The spirit of the ordinance would not be observed as the modified setbacks would not leave adequate space from adjacent properties or the right of way.

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.*

If granted, the carport overhang would be 3” from the side property line and 1’ from the front property line, which is not in conformity with the guidelines established. While there are other carports in the area that appear to be within the front setback, no variances were found granting any exceptions.

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 variances are sought are not due to unique circumstances existing on the property. The property appears to provide enough space to accommodate a carport and still adhere to the minimum side and front setback requirements.

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

The alternative to the applicant’s request is to conform to the Carport Side Setback Regulations Section 35-370(b)(1) of the Unified Development Code and Carport Front Setback Regulations Section 35-516 of the Unified Development Code

### **Staff Recommendation – Side and Front Setback Variances**

Staff recommends Denial in BOA-23-10300319 based on the following findings of fact:

1. The proposed variance is contrary to public interest as it will not leave sufficient room between the carport and adjacent property, imposing risk from water runoff into the adjacent property and the right of way, and
2. The reduced setbacks will alter the essential character of the district and surrounding area.