



# 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-24-10300145

**APPLICANT:** Killen, Griffin & Farrimond, PLLC

**OWNER:** Ernesto Flores Jr.

**COUNCIL DISTRICT IMPACTED:** District 9

**LOCATION:** 1702 Mountjoy Street

**LEGAL DESCRIPTION:** Lot 1, Block 9, NCB 14813

**ZONING:** "R-6 MLOD-1 MLR-2 ERZD" Residential Single-Family Camp Bullis Military Lighting Overlay Military Lighting Region 2 Edwards Recharge Zone District

**CASE MANAGER:** Melanie Clark, Planner

**A request for**

A 9'-11" variance from the minimum 10' carport setback to allow a carport with a 1" setback. Section 35-516(g)

**Executive Summary**

The subject property is located east of Highway 281, north of Thousand Oaks Drive on the corner of Summerwood Drive and Mountjoy Street. On May 12, 2022, the applicant, also being the property owner was cited by Code Enforcement for building a carport without a permit. On May 19, 2022, the applicant was erroneously issued a Residential Improvement Permit for the carport. Due to an administrative error the applicant is seeking a 9'-11" variance to allow an attached carport to be 1" from the side setback of the property line. The permit is pending Board of Adjustment's decision. This request was originally denied by the Board of Adjustment on May 20, 2004 (BOA-24-10300078), however the applicant requested to waive the 12-month time limitation

under UDC Sec. 35-480(f). The Board of Adjustment granted the 12-month waiver on August 19, 2024.

**Code Enforcement History**

COD-ADH-REQ22-43901992- Code/Administrative Hearing  
INV-PBP-22-3100001994 - PMT-Building Without a Permit

**Permit History**

RES-CRT-PMT22-32200882-Carport Permit  
RES-RRP-PMT-24-35302769-Residential Repair Permit  
DEM-DPP-APP24-39100289-Demolition Pedestrian Protection

**Zoning History**

The subject property was annexed into the City of San Antonio by Ordinance 41429 dated, December 25, 1972, and zoned “R-1” Single-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “R-1” Single-Family Residence District converted to “R-6” Residential Single-Family District.

**Subject Property Zoning/Land Use**

**Existing Zoning**

“R-6 MLOD-1 MLR-2 ERZD” Residential Single-Family Camp Bullis Military Lighting Overlay  
Military Lighting Region 2 Edwards Recharge Zone District

**Existing Use**

Single-Family Residential

**Surrounding Property Zoning/ Land Use**

**North**

**Existing Zoning**

“R-6 MLOD-1 MLR-2 ERZD” Residential Single-Family Camp Bullis Military Lighting Overlay  
Military Lighting Region 2 Edwards Recharge Zone District

**Existing Use**

Single-Family Residential

**South**

**Existing Zoning**

“R-6 MLOD-1 MLR-2 ERZD” Residential Single-Family Camp Bullis Military Lighting Overlay  
Military Lighting Region 2 Edwards Recharge Zone District

**Existing Use**

Single-Family Residential

**East**

**Existing Zoning**

“R-6 MLOD-1 MLR-2 ERZD” Residential Single-Family Camp Bullis Military Lighting Overlay  
Military Lighting Region 2 Edwards Recharge Zone District

**Existing Use**

Single-Family Residential

## **West**

### **Existing Zoning**

“R-6 MLOD-1 MLR-2 ERZD” Residential Single-Family Camp Bullis Military Lighting Overlay  
Military Lighting Region 2 Edwards Recharge Zone District

### **Existing Use**

Single-Family Residential

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

The subject property is in the North Sector Plan and designated as “Suburban Tier” in the future land use component of the plan. The subject property is not located within the notification area of a Neighborhood Association.

### **Street Classification**

Mountjoy Street is classified as a local road.

Summerwood Drive is classified as a local road.

### **Criteria for Review – 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 the carport setback requirement in accordance with the UDC 35-516(g). The request is not contrary to the public interest as the carport will not impede on the driveway clear vision requirements.

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

A literal enforcement of the ordinance would result in the applicant having to reconstruct the attached carport to be 10’ from the setback, which would result in an unnecessary hardship as the carport would not provide the coverage needed for vehicles.

*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 structure would be 1” from the property line, which observes the spirit of the ordinance as the carport poses no hinderance to the driveway clear vision or impedes neighboring properties.

*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 attached carport 1” from the setback 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.*

Staff finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property as the corner lot limits the location of a carport on the property.

**Alternative to Applicant’s Request**

The alternative to the applicant’s request is to conform to the setback regulations of the UDC Sections 35-516(g).

**Staff Recommendation – Carport Setback Variance**

Staff recommends Approval in BOA-24-10300145 based on the following findings of fact:

1. The location of the carport poses no hinderance to the driveway clear vision nor impedes neighboring properties.
2. The attached carport 1” setback would not alter the essential character of the district.