

Case Number:	BOA-23-10300295
Applicant:	Roberto Rodriguez
Owner:	Roberto Rodriguez
Council District:	5
Location:	606 Ruiz Street
Legal Description:	West 41.67 feet of Lot A and Lot B, Block 1, NCB 2183
Zoning:	“R-3 AHOD” Single-Family Residential Airport Hazard Overlay District
Case Manager:	Vincent Trevino, Senior Planner

**Request**

A request for a 4’-11” variance from the minimum 5’ side setback, as described in Section 35-310.01, to allow a carport to be 1” from the side setback.

**Executive Summary**

The subject property is located near the intersection of North Colorado Street and Ruiz Street, surrounded by single-family dwellings and commercial uses nearby. The property owner built an attached carport without a permit and within 1” of the side property line. There is approximately 11’ between the structure and the side property line. While conducting site visits, staff found 2 carports in the immediate area with the same reduced setback, however 1 of them will require a BOA variance as it was built after April 2019 according to dated streetview photography.

**Code Enforcement History**

INV-PBP-23-3100003531 – Building without a Permit (Carport).

**Permit History**

The issuance of a carport permit will depend on the outcome of the Board of Adjustment.

**Zoning History**

The subject property was part of the original 36 square miles of the City of San Antonio and zoned “J” Commercial District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “J” Commercial District converted to the “I-1” General Industrial District. The property was rezoned by Ordinance 97325, dated March 13, 2003, to the “R-4” Residential Single-Family District. The property was rezoned by Ordinance 2023-05-04-0286, dated May 4, 2023, to the current “R-3” Single-Family Residential District.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“R-3 AHOD” Single-Family Residential 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-3 AHOD” Single-Family Residential Airport Hazard Overlay District	Single-Family Dwelling
West	“R-5 CD AHOD” Residential Single-Family Airport Hazard Overlay District with a Conditional Use for three (3) units	Triplex

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is not within any Community Plan in the future land use component. The subject property is located within the West End Hope in Action Neighborhood Association and Gardendale Neighborhood Association boundaries, and they have been notified of this request.

**Street Classification**

Ruiz Street is classified as a local street.

**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. The public interest is represented by minimum side setback requirements, as they ensure the carport is positioned a safe and suitable distance from property lines. Staff finds a 1” side setback is contrary to the public interest. The distance will create a safety issue if the abutting property as it can create water runoff into the property.

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

Staff has found no special condition that would result in an unnecessary hardship. While there is limited room for a carport, the small lot configuration must still abide by the setback standards.

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 5’ side setback with the option of having the overhang up to 3’ is intended to leave sufficient space between structure and abutting property. The requested variance leaves almost no space between structure and property line.

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 addition will maintain a 1” side setback, which would alter the essential character of the district and appropriate use of the adjacent conforming property. Water runoff can significantly alter the use of the residential home abutting the subject 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. The property was established as a smaller lot which brings with certain structures such as carports unable to be built.

### **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

### **Staff Recommendation – Side Setback Variance**

Staff recommends Denial in BOA-23-10300295 based on the following findings of fact:

1. Water runoff can significantly alter the use of the residential home abutting the subject property; and
2. The requested variance will leave almost no space between structure and abutting property.