



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** May 19, 2005

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

**DEPARTMENT HEAD:** Michael Shannon, Director

**CASE NUMBER:** BOA-25-10300066

**APPLICANT:** Beatriz Ramirez

**OWNER:** Beatriz Ramirez

**COUNCIL DISTRICT IMPACTED:** District 7

**LOCATION:** 4518 Newcome Drive

**LEGAL DESCRIPTION:** Lot 22, Block 2, NCB 12782

**ZONING:** "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District

**CASE MANAGER:** Jewel Polimis, Planner

**A request for**

1) A 4'-11" variance from the minimum 5' side setback to allow a carport with a 1" side setback.  
Section 35-370

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

**Executive Summary**

Subject property is located south of Babcock Road and east of Callaghan Road situated on Newcome Drive. On April 9, 2025, Code Enforcement responded to a citizen call for a detached carport constructed without a permit. Further investigation determined that the carport did not meet front and side setback requirements. The carport has enough width and depth to accommodate four vehicles.

**Code Enforcement History**

INV-PBP-25-3100001868 - PMT-Building Without a Permit

**Permit History**

The applicant has not yet applied for the building permit.

**Zoning History**

Subject property was annexed into the City of San Antonio by Ordinance 18115, dated September 24, 1952, and zoned Temporary "A" Single-Family Residence District. The property was rezoned by Ordinance 25046, dated May 23, 1957, to "A" Single-Family Residence District. With the adoption of the 2001 Unified Development Code (UDC), established by Ordinance 93881, on May 3, 2001, the subject property converted from "A" Single-Family Residence District to "R-5" Residential Single-Family District.

**Subject Property Zoning/Land Use****Existing Zoning**

"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**Surrounding Property Zoning/ Land Use****North****Existing Zoning**

"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**South****Existing Zoning**

"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District

**Existing Use**

Texas Department of Transportation San Antonio District Headquarters

**East****Existing Zoning**

"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**West****Existing Zoning**

"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Medical Center Area Regional Center Plan and is designated as “Urban 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**

Newcombe Drive is classified as a local road.

### **Criteria for Review – Side and Front 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. The applicant is requesting a variance to the front setback standard to allow a carport to have a 1” front setback and a variance to the side setback standard to allow 1” side setback. The variance is contrary to the public interest as this does not provide sufficient separation between structure, property line, and right-of-way.

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

Staff found no special conditions on the subject property that would permit an exception to the side and front setback standard. A literal enforcement of the ordinance would not result in unnecessary hardship, as the carport can be adjusted to meet the front and side setback requirements and cover two 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 reduction of the side and front setback requirement would injure neighboring properties, as the structure is too close to the property line, resulting in overcrowding in the front yard against the right of way and the adjacent property.

*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.*

The side and front setback would alter the essential character of the district by potentially creating water runoff issues and crowding against the right of way.

*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 owner can adjust the carport to abide by front setback requirements.

**Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the minimum setback requirements of the UDC Section 35-370 and Section 35-516.

**Staff Recommendation – Side and Front Setback Variance**

Staff recommends Denial in BOA-25-10300066 based on the following findings of fact:

1. Insufficient space will remain for the purposes of water runoff, fire safety, and maintenance of the structure.
2. The requested variance will alter the essential characteristics of the district in which the property is located.