



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** November 4, 2024

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

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

**CASE NUMBER:** BOA-24-10300199

**APPLICANT:** Adrian Hernandez

**OWNER:** Adrian Hernandez

**COUNCIL DISTRICT IMPACTED:** District 5

**LOCATION:** 3108 El Paso Street

**LEGAL DESCRIPTION:** Lot 7 and north 72.1 feet of Lot 15, Block 2, NCB 6104

**ZONING:** “R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

**CASE MANAGER:** Colton Unden, Planner

**A request for**

1) A 4’-11” variance from the minimum 5’ side setback to allow a 1” side setback for a carport. Section 35-310.01.

2) A 10’ variance from the minimum 15’ clear vision to allow a 5’ driveway clear vision. Section 35-514 (a)(2)(b).

**Executive Summary**

The subject property is located along El Paso Street, north of Guadalupe Street, located within the Prospect Hill Neighborhood Association. The applicant had an attached carport constructed without a permit and was informed by code enforcement of the violation on August 6, 2024. The applicant then acquired a Carport Permit subsequently on August 16, 2024, with an inaccurate setback measurement listed. The code issue was confirmed again on September 3, 2024, and the

applicant applied for a Board of Adjustment variance on September 23, 2024. Upon site visits, staff noted numerous carports in the area also within side setbacks.

### **Code Enforcement History**

INV-PBP-24-3100004247 - PMT-Building Without a Permit

### **Permit History**

RES-CRT-PMT24-32201152 – Carport Permit

RES-FEN-PMT22-31900078 – Fence Permit

### **Zoning History**

The subject property was a part of the original 36 square miles of the City of San Antonio and was originally zoned “B” Residence District. The property was rezoned by Ordinance 75720, dated May 7, 1992, to “R-7” Small Lot Home District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “R-7” Small Lot Home District converted to the current “R-4” Residential Single-Family District.

### **Subject Property Zoning/Land Use**

#### **Existing Zoning**

“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay  
Military Lighting Region 2 Airport Hazard Overlay District

#### **Existing Use**

Single-Family Dwelling

### **Surrounding Property Zoning/ Land Use**

#### **North**

#### **Existing Zoning**

“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay  
Military Lighting Region 2 Airport Hazard Overlay District

#### **Existing Use**

Single-Family Dwelling

#### **South**

#### **Existing Zoning**

“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay  
Military Lighting Region 2 Airport Hazard Overlay District

#### **Existing Use**

Vacant Lot

#### **East**

#### **Existing Zoning**

“R-2 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay  
Military Lighting Region 2 Airport Hazard Overlay District and “R-3 MLOD-2 MLR-2 AHOD”  
Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport  
Hazard Overlay District

#### **Existing Use**

Single-Family Dwelling

**West**

**Existing Zoning**

“R-2 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District and “R-3 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

**Existing Use**

Single-Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is located within the Guadalupe/Westside 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 Prospect Hill Neighborhood Association, and they have been notified of this request.

**Street Classification**

El Paso Street is classified as a Local Road.

**Criteria for Review – Side Setback and Driveway Clear Vision 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 side setback variance is contrary to the public interest as inadequate space will be left between structures create potential fire safety and water runoff issues. Insufficient distance can facilitate the rapid spread of fire from one building to another.

The driveway clear vision variance is not contrary to the public interest as sufficient space will remain to safely back out from the driveway onto the local road.

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

A literal enforcement of the side setback ordinances would not result in unnecessary hardship as the applicant can create more spacing and potentially relocate the carport.

A literal enforcement of the driveway clear vision ordinances would result in unnecessary hardship as the fence and gate line is at an established line in the neighborhood.

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

The requested side setback variance does not appear to be in the spirit of the ordinance as inadequate space between structures will aggravate fire safety and water runoff issues, leading to potential flooding or erosion problems.

The requested driveway clear vision variance supports a sense of community and cohesion among residents while still adhering to the overarching goals 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 that the side setback variance would substantially injure the appropriate use of adjacent properties as the water runoff from the carport would impact the immediate neighbor and the risk of fire spreading would be increased.

Staff finds that the driveway clear vision variance would not substantially injure the appropriate use of adjacent properties as the fence and gate location is consistent in the neighborhood in which relief is sought.

*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 does not find any unique circumstances existing on the property for the side setback variance as the property is an adequately sized lot.

Staff finds the unique circumstances existing on the property for the driveway clear vision is the established fence and gate line in the neighborhood.

#### **Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the side setback and driveway clear vision requirements of the UDC Sections 35-310.01 and 35-514(a)(2)(b).

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

Staff recommends Denial in BOA-24-10300199 based on the following findings of fact:

1. Inadequate space between structures will create water runoff issues, leading to potential flooding or erosion problems.
2. Insufficient distance can facilitate the rapid spread of fire from one building to another.

#### **Staff Recommendation – Driveway Clear Vision Variance**

Staff recommends Approval in BOA-24-10300199 based on the following findings of fact:

1. Sufficient space will remain to safely back from and on to the local road.
2. The requested variance will not alter the essential characteristics of the district in which it is located.