



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** June 16, 2025

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

**DEPARTMENT HEAD:** Michael Shannon, Director

**CASE NUMBER:** BOA-25-10300086

**APPLICANT:** Shawnee Cervantes

**OWNER:** Shawnee Cervantes

**COUNCIL DISTRICT IMPACTED:** District 3

**LOCATION:** 1334 Hicks Avenue

**LEGAL DESCRIPTION:** Lot 9, Block 40, NCB 6571

**ZONING:** "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District

**CASE MANAGER:** Jewel Polimis, Planner

**A request for**

1) A 4'-11" side setback variance from the minimum 5' setback requirement to allow a carport to be 1" with gutters from the side property line.

Section 35-310.01

2) A 4' side setback variance from the minimum 5' setback requirement to allow an accessory structure to be 1' with overhang from the side property line.

Section 35-370(b)(1)

**Executive Summary**

The subject property is situated on Hicks Avenue, just north of Steves Avenue, within the Highland Park Neighborhood Association. On May 9, 2025, the applicant, also the property owner, was cited by Code Enforcement for building a carport without a permit. During site visits, staff noted that

the carport was located just 1” from the eastern property line. Additionally, an accessory structure at the rear of the property is encroaching into the eastern side setback, requiring a variance as well.

**Code Enforcement History**

INV-PBP-25-3100002382 – Building Without a Permit (Carport) – Pending Resolution

**Permit History**

No permit history.

**Zoning History**

Subject property was located within the original 36 square miles of the City of San Antonio and zoned “B” 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 “B” Residence District to “R-4” Residential Single-Family District.

**Subject Property Zoning/Land Use**

**Existing Zoning**

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

**Existing Use**

Single-Family Residence

**Surrounding Property Zoning/ Land Use**

**North**

**Existing Zoning**

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

**Existing Use**

Single-Family Residence

**South**

**Existing Zoning**

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

**Existing Use**

Single-Family Residence

**East**

**Existing Zoning**

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

**Existing Use**

Single-Family Residence

**West**

**Existing Zoning**

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

**Existing Use**

Single-Family Residence

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

The subject property is in the “Southeast Community Area Plan” and is designated as “Urban Low Density Residential” in the future land use component of the plan. The subject property is located within the notification area of the Highland Park Neighborhood Association, and they have been notified of the request.

### **Street Classification**

Hicks Avenue is classified as a Local Road.

### **Criteria for Review – Carport and Accessory Structure**

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 side setback variances for the carport and accessory structure are contrary to the public interest as insufficient space will remain for the purposes of water runoff, fire safety concerns, and property maintenance.

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

A literal enforcement of the side setback ordinance would not result in unnecessary hardship, as the applicant can reduce the driveway width to accommodate the support beams to maintain a reasonable distance from the side property line, and development space is present to increase the accessory structure side setback.

*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 is to leave sufficient space between the structure and the abutting property. The requested side setback variances do not appear to be in the spirit of the ordinance, as insufficient space will remain for the purposes of water runoff and fire safety concerns, as well as for the maintenance of the structure.

*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 variances would substantially injure the appropriate use of adjacent properties as insufficient space will remain for maintenance of the addition and the increased risk of fire spreading would be aggravated. The requested variance will alter the essential characteristics of the district in which the property is located.

*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 that the plight of the owner of the property for which the variance is sought is not due to unique circumstances existing on the property.

**Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the side setback standards of Section 35-310.01 and Section 35-370(b)(1) of the Unified Development Code.

**Staff Recommendation – Carport and Accessory Structure Side Setback Variance**

Staff recommends Denial in BOA-25-10300086 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.