



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** November 18, 2024

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

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

**CASE NUMBER:** BOA-24-10300198

**APPLICANT:** Leticia Martinez-Perez

**OWNER:** Estate of Rafaela Martinez

**COUNCIL DISTRICT IMPACTED:** District 3

**LOCATION:** 1010 Steves Avenue

**LEGAL DESCRIPTION:** Lot 33, Block 5, NCB 3061

**ZONING:** "R-4 MC-2 AHOD" Residential Single-Family South Presa Metropolitan Corridor Airport Hazard Overlay District

**CASE MANAGER:** Melanie Clark, Planner

**A request for:**

1) A 9'-11" variance from the minimum 10' front setback requirement to allow a detached carport to be 1" from the front setback.

Section 35-516 (g)

2) A 4'-11" variance from the minimum 5' side setback to allow an accessory structure to remain 1" from the east side setback.

Section 35-370 (b)(1)

3) A 4'-6" variance from the minimum 5' side setback to allow an accessory structure to remain 6" from the west side setback.

Section 35-370 (b)(1)

4) A 2' variance from the minimum 5' rear setback to allow an accessory structure to be 3' from the rear setback.

Section 35-370 (b)(1)

5) A 49% impervious cover variance to from the maximum 50% impervious cover to allow 99% impervious coverage in the front yard.

Section 35-515 (d)(1) Table 515-1

6) A 20% lot coverage variance from the maximum 50% lot coverage to allow 70% total coverage for an accessory structure side and rear yard.

Section 35-370 (b)(3)

7) A 600 square foot variance from the maximum 2,500 Square foot floor area to allow 3,100 square foot floor area for an accessory structure in the side and rear yard.

Section 35-370 (b)(4)

### **Executive Summary**

Subject property is located south of Interstate 10, west of Interstate 37, approximately 130' from South Presa Street and Steves Avenue intersection. On July 31, 2023, Code Enforcement was contacted to investigate the subject property due to a Change of Zoning request initiated by the property owner, later withdrawn on August 17, 2023. The Change of Zoning review as well as historical views of the property indicated that multiple projects had been constructed on the property sometime after March of 2019, without obtaining permits. The applicant, being the property owner, inherited the residential estate in 2022 and is requesting multiple variances to allow a detached front carport to be 1' from the front setback. To allow a rear accessory structure to remain 1' from the east setback, 6' from the west setback, 3' from the rear setback, a 70% total coverage for an accessory structure side and rear yard as well as to allow the rear accessory structure to maintain a 3,100 square foot floor area. Additionally, while conducting a site visit of the property, Staff discovered that the property would require a 49% impervious cover variance to allow for 99% impervious coverage in the front yard. The property abuts residential on the east (side) and south (rear), and commercial on the west (side). Permits are pending the outcome of the Board of Adjustment.

### **Code Enforcement History**

INV-PBP-23-3100002237- Permit Investigation-PMT Building without a Permit

INV-ZPS-23-3160002504 – Zoning UDC Investigation- Zoning- Property Setback

### **Permit History**

The applicant has not yet applied for the building permit.

### **Zoning History**

Subject property was part of 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 zoning converted from "B" Residence District to "R-4" Residential Single-Family District.

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

“R-4 MC-2 AHOD” Residential Single-Family South Presa Metropolitan Corridor Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

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

“R-4 MC-2 AHOD” Residential Single-Family South Presa Metropolitan Corridor Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**South****Existing Zoning**

“R-4 MC-2 AHOD” Residential Single-Family South Presa Metropolitan Corridor Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**East****Existing Zoning**

“R-4 MC-2 AHOD” Residential Single-Family South Presa Metropolitan Corridor Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**West****Existing Zoning**

“IDZ MC-2 AHOD” Residential Single-Family South Presa Metropolitan Corridor Airport Hazard Overlay District

**Existing Use**

Convenience Store

**Comprehensive Plan Consistency/Neighborhood Association**

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

**Street Classification**

Steves Avenue is classified as a Secondary Arterial Type B 70’-86’.

**Criteria for Review – Front, Side and Rear Setback, Imperious Cover, Lot Coverage, and Square Foot Floor Area 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 represented by the maximum impervious surface requirements to prevent excessive surface water and pollutant runoff as well as minimum setback requirements for adequate spacing between properties. The front, rear accessory structures and impervious surface area are contrary, as it will injure neighboring properties by creating disproportionate distance between properties and severely reducing permeable surface area, increasing risk of excessive water runoff onto adjacent properties and right-of-way.

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

Staff did not find any special conditions on the subject property that would result in unnecessary hardship as the front carport could be relocated to the side, which would allow for proper front yard impervious cover. Furthermore, the size and setbacks of the rear and side yard accessory structures are more compatible with commercial uses than with residential ones.

*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 granting of the front, side and rear setbacks, lot coverage, maximum floor area and impervious cover variances as it significantly reduces—nearly eliminating—adequate space from adjacent lots and results in an overcrowded appearance in the side and rear yards.

*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 front and rear accessory structures, along with the impervious coverage in the front yard, appears out of character with the district as no other similarly designed properties were found in the area. If granted, the variances may injure the adjacent properties, as the reduced seatbacks limit access to for preventative maintenance of the structure and the disproportionate impervious coverage hinders water drainage, increasing water runoff onto neighboring lots.

*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 as there is reasonable space on the property to construct the front and rear accessory structures to meet UDC regulations. Additionally, incorporating permeable materials in the front yard to help reduce exceeding impervious surface allowances.

**Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the minimum setback, lot size, square foot coverage requirements of accessory structures/carports and maximum impervious cover percentage of the UDC Sections 35-370, 35-316 and 35-515.

**Staff Recommendation – Front, Side, Rear Setback, Imperious Cover, Lot Coverage, and Square Foot Floor Area Variance**

Staff recommends Denial in BOA-24-10300198 based on the following findings of fact:

1. Reduced front, side and rear setbacks will injure neighboring properties by creating an unsafe and disproportionate distance between properties.
2. The impervious cover variance would severely reduce the property's permeable surface area, increasing risk of excessive water runoff onto adjacent properties and right-of-way.
3. The size and setbacks of the rear and side yard accessory structures are more compatible with commercial uses than with residential ones.