



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** May 5, 2025

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

**DEPARTMENT HEAD:** Michael Shannon, Director

**CASE NUMBER:** BOA-25-10300056

**APPLICANT:** Alice Estrada

**OWNER:** Alice Estrada

**COUNCIL DISTRICT IMPACTED:** District 2

**LOCATION:** 507 East Whittier Street

**LEGAL DESCRIPTION:** Lot 15, Block 3, NCB 6737

**ZONING:** "RM-4 AHOD" Residential Mixed Airport Hazard Overlay District

**CASE MANAGER:** Manuel Mottu, Planner

**A request for:**

- 1) A 4'-6" variance from the minimum 5' side setback to allow for a carport with a 6" side setback. Section 35-310.01 (Table 310-1)
- 2) A 3' variance from the minimum 5' side setback to allow a 2' side setback for a front addition. Section 35-310.01 (Table 310-1)

**Executive Summary**

The subject property is located East of the Thomas Nelson Page Middle School, along East Whittier Street and located within the Denver Heights Neighborhood Association. The applicant applied for a building permit for the added attached carport to the east of the property and an extension of the patio cover towards the west of the property after Code Enforcement issued a violation. The applicant is requesting side setback variances for the carport and patio cover as they do not adhere to the setback regulations set by the Unified Development Code. Per county records,

the residential structure was built in 1930. The Code Enforcement investigation and residential permit are pending the results from the Board of Adjustment.

**Code Enforcement History**

INV-ZPS-25-3160000692 – March 12, 2025 – Carport Setback – Pending

**Permit History**

RES-COV-PMT25-32300487 – April 9, 2025 – Carport and Patio - Active

**Zoning History**

The subject property is within the Original 36 square miles of the City of San Antonio and was zoned “B” Residence District. The property was rezoned by Ordinance 79329, dated December 16<sup>th</sup>, 1993, from “B” Residence District to “R-2” Two-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “R-2” Two-Family Residence District was converted to the current “RM-4” Residential Mixed District.

**Subject Property Zoning/Land Use**

**Existing Zoning**

“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**Surrounding Property Zoning/ Land Use**

**North**

**Existing Zoning**

“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**South**

**Existing Zoning**

“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**East**

**Existing Zoning**

“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**West**

**Existing Zoning**

“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Eastside 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 Denver Heights Neighborhood Association, and they have been notified of the request.

**Street Classification**

East Whittier Street is classified as a Local Street.

**Criteria for Review – Side and Rear 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.*

(Carport Setback)

The public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by following the side setback requirements of the Unified Development Code that provide adequate spacing between neighboring structures. The carport setback variance is contrary to the public interest as insufficient space will remain for the purposes of water runoff and fire prevention.

(Patio Setback)

The patio addition setback variance is not contrary to the public interest as it follows an established setback on the property and directly abuts the driveway of the neighboring lot.

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

(Carport Setback)

Staff finds that a literal enforcement of the side setback requirements would not result in unnecessary hardship as the applicant can reduce the added carport.

(Patio Setback)

Staff finds that a literal enforcement of the side setback requirements would result in unnecessary hardship as the patio would be reduced in size and off set from the principal structure setback.

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

(Carport Setback)

The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. The carport side setback variance requested does not appear to be in the spirit of the ordinance,

as the encroachment of the added structure into the required setback does not allow enough space for fire prevention nor proper water runoff.

(Patio Setback)

The patio side setback variance appears to be in the spirit of the ordinance, as the encroachment of the added structure into the required setback allows enough space for fire prevention and proper water runoff.

*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.*

(Carport Setback)

Staff finds that the carport side setback variance would substantially injure the appropriate use of the adjacent property as insufficient space will remain for neither fire prevention nor proper water runoff.

(Patio Setback)

Staff finds that the patio side setback variance would not substantially injure the appropriate use of adjacent property as no structure exists directly abutting the patio.

*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.*

(Carport Setback)

Staff finds that there are no unique circumstances existing on the property for the carport side setback variance as a reduction in the carport's size would allow compliance with the setback requirements while still accommodating its intended use.

(Patio Setback)

Staff finds that there are unique circumstances existing on the property for the patio side setback variance as adherence to the standard setback would result in a misalignment with the established structure, creating an offset that affects functionality and design consistency.

**Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the setback requirements of the UDC Section 35-510.01 (Table 310-1)

**Staff Recommendation – Carport Side Setback Variance**

Staff recommends Denial in BOA-25-10300056 based on the following findings of fact:

1. The proximity of the added carport to the neighboring property will not leave enough space for neither fire prevention nor proper water runoff.
2. The requested variance will alter the essential characteristics of the district in which the property is located.

**Staff Recommendation – Patio Side Setback Variance**

Staff recommends Approval in BOA-25-10300056 based on the following findings of fact:

1. The addition would align with the established reduced setback.
2. The patio does not directly abut a structure on the neighboring lot.