



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** January 6, 2025

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

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

**CASE NUMBER:** BOA-24-10300236

**APPLICANT:** Priscilla Escalera

**OWNER:** Priscilla Escalera

**COUNCIL DISTRICT IMPACTED:** District 4

**LOCATION:** 3602 Aragon Drive

**LEGAL DESCRIPTION:** Lot 11, Block 10, NCB 14472

**ZONING:** “R-5 MLOD-2 MLR-1 AHOD” Single-Family Residential Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District.

**CASE MANAGER:** Colton Unden, Planner

**A request for**

A 4'-11" side setback variance from the minimum 5' side setback to allow a carport to be 1" from the side property line.  
Section 35-310.01

**Executive Summary**

The subject property is located along Aragon Drive, north of Southwest Loop 410. The applicant constructed a carport without permit and code enforcement cases were opened in July and August of 2024 in response. Dated street view photography shows the carport was built after December of 2021. Upon staff site visits, the Carport appeared to be 1" from the side property line.

**Code Enforcement History**

INV-ZPS-24-3160002165 - Zoning - Property Setback – Pending Resolution

INV-PBP-24-3100004134 - PMT-Building Without a Permit – Pending Resolution  
INV-PBP-24-3100004196 - PMT-Building Without a Permit – Closed

### **Permit History**

The applicant has not yet applied for the building permit.

### **Zoning History**

The subject property was annexed into the City of San Antonio by Ordinance 39953, dated October 27, 1971, and zoned “R-1” Single-Family Residence District. The property was rezoned by Ordinance 64986 dated May 7, 1987, to “R-5” Single-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property was converted to “R-5” Residential Single-Family District.

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

#### **Existing Zoning**

“R-5 MLOD-2 MLR-1 AHOD” Single-Family Residential Lackland Military Lighting Overlay  
Military Lighting Region 1 Airport Hazard Overlay District

#### **Existing Use**

Single Family Dwelling

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

#### **North**

##### **Existing Zoning**

“R-5 MLOD-2 MLR-1 AHOD” Single-Family Residential Lackland Military Lighting Overlay  
Military Lighting Region 1 Airport Hazard Overlay District

##### **Existing Use**

Single Family Dwelling

#### **South**

##### **Existing Zoning**

“R-5 MLOD-2 MLR-1 AHOD” Single-Family Residential Lackland Military Lighting Overlay  
Military Lighting Region 1 Airport Hazard Overlay District

##### **Existing Use**

Single Family Dwelling

#### **East**

##### **Existing Zoning**

“R-5 MLOD-2 MLR-1 AHOD” Single-Family Residential Lackland Military Lighting Overlay  
Military Lighting Region 1 Airport Hazard Overlay District

##### **Existing Use**

Single Family Dwelling

#### **West**

##### **Existing Zoning**

“R-5 MLOD-2 MLR-1 AHOD” Single-Family Residential Lackland Military Lighting Overlay  
Military Lighting Region 1 Airport Hazard Overlay District

**Existing Use**  
Single Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Heritage South Sector Plan and is designated as “Suburban Tier” 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**

Aragon Drive is classified as a Local Road.

**Criteria for Review – Carport Side 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 side setback variance is contrary to the public interest as insufficient space will remain for the purposes of water runoff and fire safety concerns.

*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 relocate the carport to be within setbacks on the lot.

*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 insufficient space will remain for the purposes of water runoff and fire safety concerns.

*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 insufficient space will remain for maintenance of the addition and the increased risk of fire spreading would be aggravated.

*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 no unique circumstances existing on the property for the side setback variance as a carport could be located to a different part of the lot in compliance with setback rules.

**Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the carport side setback requirements of the UDC Section 35-310.01.

**Staff Recommendation – Carport Side Setback Variance**

Staff recommends Denial in BOA-24-10300236 based on the following findings of fact:

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