



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** December 2, 2024

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

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

**CASE NUMBER:** BOA-24-10300216

**APPLICANT:** French & Michigan, LLC

**OWNER:** Francisco J. and Mae H. Miranda

**COUNCIL DISTRICT IMPACTED:** 1

**LOCATION:** 332 Florida Street

**LEGAL DESCRIPTION:** Lot 8-9, north 46 feet of Lot 17 and north irregular 33 feet of Lot 18, Block 8, NCB 3010

**ZONING:** "RM-4 H CD AHOD" Residential Mixed Lavaca with a Conditional Use for a five (5) unit apartment Airport Hazard Overlay District and "RM-4 H AHOD" Residential Mixed Lavaca Airport Hazard Overlay District.

**CASE MANAGER:** Melanie Clark, Planner

**A request for:**

1) A 3'-5" variance from the minimum 5' rear setback requirement to allow a carport to be 1'-7" from the rear property line.  
Section 35-370(b)(1)

**Executive Summary**

Subject property is located west of Interstate 37, within the Lavaca Historic District, on the corner of Florida Street and Boerne Street intersection. The applicant, on behalf the property owner, is proposing construction of a carport onto a detached accessory dwelling unit located on the property. The applicant is seeking an 3'-5" rear setback variance to allow the carport to be 1'-7" from the rear setback. Applicant will need to procure a Certificate of Appropriates from the Office

of Historic Preservation before prior to construction. Permits are pending the results from the Board of Adjustment.

**Code Enforcement History**

No Code Enforcement history found.

**Permit History**

RES-CRT-PMT24-32201674 – Building/Carport Permit Application

**Zoning History**

Subject property was part of the original 36 square miles of the City of San Antonio and zoned “D” Apartment District. The property was rezoned by Ordinance 74924 dated, December 9, 1991, to “R-2” Two Family District with SUP for a 5-unit apartment with a portion of the property rezoned to “R-2” Two Family District. With the adoption of the 2001 Unified Development Code (UDC), established by Ordinance 93881, on May 3, 2001, a portion of the subject property converted from “R-2” Residence district to “RM-4 C” Residential Mixed District with a Conditional Use for a 5 Unit Apartment. The remaining portion converted to “RM-4” Residential Mixed District. The property was rezoned by Ordinance 99338 dated, June 10, 2004, from “RM-4 C” Residential Mixed District to “H RM-4 C” Historic Residential Mixed District with a Conditional Use for a 5 Unit Apartment with the residual portion retaining “RM-4 H HS”.

**Subject Property Zoning/Land Use**

**Existing Zoning**

"RM-4 H CD AHOD" Residential Mixed Lavaca with a Conditional Use for a five (5) unit apartment Airport Hazard Overlay District

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

**Existing Use**

Single-Family Residence

**Surrounding Property Zoning/ Land Use**

**North**

**Existing Zoning**

"RM-4 H AHOD" Residential Mixed Lavaca Airport Hazard Overlay District

“R-6 H AHOD” Single-Family Lavaca Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**South**

**Existing Zoning**

"RM-4 H AHOD" Residential Mixed Lavaca Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**East**

**Existing Zoning**

"RM-4 H AHOD" Residential Mixed Lavaca Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**West****Existing Zoning**

"RM-4 H AHOD" Residential Mixed Lavaca Airport Hazard Overlay District

"R-6 H AHOD" Single-Family Lavaca Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Downtown Area Regional Center 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 Lavaca Neighborhood Association, and the San Antonio Texas District One Resident Association; they have been notified of the request.

**Street Classification**

Florida Street is classified as a Secondary Arterial Type A 86'.

Boerne Street is classified as a local road.

**Criteria for Review – Accessory Structure 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.*

The public interest is defined as the general health, safety, and welfare of the public. The applicant is requesting a variance to the rear setback standard to allow a structure to be 1'-7" rear setback. Staff finds the request is not suitable, as it imposes on the public interest of the adjacent neighbor by being too close to the shared property line, limits access around structure for upkeep and will create water runoff onto neighboring lot.

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

A literal enforcement of the ordinance would not result in unnecessary hardship as the proposed carport can be redesigned to accommodate setback requirements.

*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. In this case, the intention is for sufficient spacing between the structure and the property line. The structure will be 1'-7" from the rear property line, which does not observe the spirit of the ordinance or intent of the code as it will be too close to the shared property line and neighboring property.

*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 rear setback would alter the essential character of the district by not adhering to the required setbacks.

*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. The property owner can redesign the carport to abide by rear setback requirements.

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

The alternative to the applicant's request is to conform to the accessory structure minimum rear setback requirements of the UDC Section 35-370(b)(1).

#### **Staff Recommendation – Rear Setback Variance**

Staff recommends Denial in BOA-24-10300216 based on the following findings of fact:

1. This distance is not suitable, as it imposes on the public interest of the adjacent neighbor by being too close to the shared property line, limits access general upkeep of the structure and will create water runoff onto neighboring lot.
2. The applicant could restructure the carport to comply with setback regulations.