



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** September 9, 2024

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

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

**CASE NUMBER:** BOA-24-10300162

**APPLICANT:** Laura Bustillos

**OWNER:** Patricia Nunez-Ruiz and Fernanda Ruiz-Healy

**COUNCIL DISTRICT IMPACTED:** District 1

**LOCATION:** 254 East Summit Avenue

**LEGAL DESCRIPTION:** Lot 6, Lot 7 and west 22.92 feet of Lot 8, NCB 6885

**ZONING:** "R-5 H AHOD" Residential Single-Family Monte Vista Historic Airport Hazard Overlay District

**CASE MANAGER:** Vincent Trevino, Senior Planner

**A request for**

A request for a 4'-11" variance from the minimum 5' side setback requirement to allow a carport to be 1" from the side setback.

Section 35-310.01 (Table 310-1)

**Executive Summary**

The property is located East Summit Avenue, west of Highway 281, north of East Mulberry. The applicant is proposing a carport with a reduced side setback. This property is located within the Monte Vista Historic District. Any exterior modifications or new construction will require approval from the Office of Historic Preservation. Approval of a site plan or materials submitted as part of a variance application does not supersede any requirements for design review outlined in Article VI of the Unified Development Code. On August 7, 2024, the Historic & Design Review Commission approved the request to construct a side carport with the stipulations that the applicant

use a wood or wood-clad frame for the carport and meet all setback standards as required by city zoning and obtain a variance from the BOA if applicable. To date, the applicant has received a Commission Action letter from the HDRC and may receive the Certificate of Appropriateness once the applicant has satisfied the HDRC stipulation for the wood or wood-clad framing.

**Code Enforcement History**

No Code Enforcement history found.

**Permit History**

The applicant has not yet applied for the building permit.

**Zoning History**

The subject property was located within the original 36 square miles of the City of San Antonio and zoned "A" Single-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned "A" Single-Family Residence District converted to the current "R-5" Residential Single-Family District.

**Subject Property Zoning/Land Use**

**Existing Zoning**

"R-5 H AHOD" Residential Single-Family Monte Vista Historic Airport Hazard Overlay District

**Existing Use**

Single-Family Dwelling

**Surrounding Property Zoning/ Land Use**

**North**

**Existing Zoning**

"R-5 H AHOD" Residential Single-Family Monte Vista Historic Airport Hazard Overlay District

**Existing Use**

Single-Family Dwelling

**South**

**Existing Zoning**

"R-6 H AHOD" Residential Single-Family Monte Vista Historic Airport Hazard Overlay District

**Existing Use**

Church

**East**

**Existing Zoning**

"R-5 H AHOD" Residential Single-Family Monte Vista Historic Airport Hazard Overlay District

**Existing Use**

Single-Family Dwelling

**West**

**Existing Zoning**

"R-5 H AHOD" Residential Single-Family Monte Vista Historic Airport Hazard Overlay District

**Existing Use**

Single-Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Monte Vista Neighborhood Plan however the plan does not require consistency determination. The subject property is located within the notification area of Monte Vista Historical Neighborhood Association, and they have been notified of the request.

**Street Classification**

East Summit is classified as a Local Road.

**Criteria for Review – 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 minimum side setback requirements, as they ensure the carport is positioned a safe and suitable distance from property lines. Staff finds a 1” side setback is contrary to the public interest. The distance will create a safety issue if the abutting property as it can create water runoff into the property.

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

Staff has found no special condition that would result in an unnecessary hardship. While there is limited room for a carport, the small lot configuration must still abide by the setback standards.

*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 intended to leave sufficient space between structure and abutting property. The requested variance leaves almost no space between structure and property line.

*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.*

If granted, the addition will maintain a 1” side setback, which would alter the essential character of the district and appropriate use of the adjacent conforming property. Water runoff can significantly alter the use of the residential home abutting the subject property.

*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 proposed carport needs to adhere to the Unified Development Code building standards to ensure the safety of neighboring properties.

**Alternative to Applicant’s Request**

The alternative to the applicant’s request is to conform to the Setback Regulations of the UDC Section 35-310.01 (Table 310-1).

**Staff Recommendation – Carport Side Setback Variance**

Staff recommends Denial in BOA-24-10300162 based on the following findings of fact:

1. Water runoff can significantly alter the use of the residential home abutting the subject property.
2. Will injure the use of adjacent conforming properties and increases the chances of fire spread between properties/structures.