

Case Number:	BOA-22-10300043
Applicant:	Raul Ayala
Owner:	Raul Ayala
Council District:	5
Location:	1714 Rivas Street
Legal Description:	Lot 4, Block 10, NCB 368
Zoning:	“R-4 MLOD-2 MLR-2 AHOD” Residential Single Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Case Manager:	Richard Bautista-Vazquez, Planner

Request

A request for 1) 8’ 9” variance from the minimum 10’ front setback requirement, as described in Section 35-310, to allow a carport to be 3” from the front property line and 2) a 3’ variance from the minimum 5’ side setback requirement, as described in Section 35-310, to allow a carport with 1’ 2” overhang and gutters to be 2’ from the side property line.

Executive Summary

The applicant has constructed a carport that encroaches into the front and side setback. The carport currently measures 15’ 6” wide. The applicant received a stop work order from a code enforcement due to building without a permit. During the permitting process, it was determined the side and rear setback requirements were not being met and needed variances from the Board of Adjustment. Upon the site visit, staff observed a similar carport in the immediate area.

Code Enforcement History

A Code Investigation was opened on February 25, 2022 for Building Without Permit.

Permit History

No permits have been issued. A building permit is pending the outcome of the BOA Meeting.

Zoning History

The subject property was located within the Original City Limits of San Antonio and was zoned “B” Residence District. Upon adoption of the 2001 Unified Development Code, the zoning converted from “B” Residence District to the current “R-4” Residential Single-Family District, established by Ordinance 93881, dated May 3, 2001.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-4 MLOD-2 MLR-2 AHOD” Single Family Residential Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-4 MLOD-2 MLR-2 AHOD” Single Family Residential Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling
South	“R-4 MLOD-2 MLR-2 AHOD” Single Family Residential Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling
East	“R-4 MLOD-2 MLR-2 AHOD” Single Family Residential Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling
West	“R-4 MLOD-2 MLR-2 AHOD” Single Family Residential Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Downtown Area Regional Center Plan and is currently designated Urban Low Density Residential in the future land use component of the plan. The subject property is located within the Prospect Hill Neighborhood Association and West End Hope in Action Neighborhood Association, and they were both notified of the case.

Street Classification

Rivas Street is classified as a local road.

Criteria for Review – Side and Front Setback Variances

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 variances from the minimum 10’ front setback and 5’ side setback requirements to allow a carport to be 3” from the front property line 2’ from the side property line. The carport as built appears to be contrary to the public interest.

Staff finds a 2’ variance to the side setback and a 5’ variance to the front setback are more appropriate for the property as they are not contrary to the public interest.

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

A literal enforcement of the ordinance would result in the applicant having to move the post of the structure to 5' away from side property lines and 10' from the front property line which would reduce width of the carport the amount of covered parking considerably.

Unnecessary hardship is found by enforcing the ordinance and a 5' front setback and moving the posts 3' from the side property line appear to appease the special conditions imposed by the small size of the property.

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 carport was erected for protection of the vehicles that will be parked under the structure and will not adversely affect surrounding properties in the immediate area. The spirit of the ordinance appears to be observed with a 2' side setback variance and a 5' front setback variance.

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 the carport as proposed may affect the adjacent neighboring property and may alter the essential character of the district with the way it is currently designed.

There were similar carports in the surrounding area, but not built as large as the subject property. Staff finds the alternate recommendation may not injure adjacent properties and is less likely to alter the essential character of the district.

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 due to unique circumstances existing on the property such as the small amount of available space.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Side and Rear Setback Regulations per the UDC Section 35-310.

Staff Recommendation

Staff recommends Denial **with an Alternate Recommendation of 1) 5' variance from the minimum 10' front setback requirement to allow a carport to be 5' from the front property line and 2) a 2' variance from the minimum 5' side setback requirement to allow a carport with 1' 2" overhang to be 3' from the side property line** in BOA-22-10300043 based on the following findings of fact:

1. The width of the carport will be adjusted to 14' 6"; and
2. There is no issue for water runoff as the applicant plans to install gutters; and
3. The structure will not negatively affect neighboring properties.