

Case Number:	BOA-22-10300082
Applicant:	Jose Hernandez
Owner:	Hernandez Jose J & Esther
Council District:	1
Location:	1535 W Ashby
Legal Description:	Lot 13, Block 5, NCB 1997
Zoning:	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District.
Case Manager:	Vincent Trevino, Senior Planner

Request

A request for 1) a 2' 2" variance from the minimum 5' side setback requirement, as described in section 35-370(b)(1) to allow a carport with overhang and gutters to be 2' 10" from the side property line. 2) A 6' 7" variance from the 10' minimum front setback requirement, as described in section 35-516(g) to allow a carport to be 3' 5" from the front property line.

Executive Summary

The applicant has constructed a detached carport that encroaches into the side and front setback. A stop work order was issued by code enforcement due not obtaining a permit prior to construction. The applicant has installed gutters on both sides of the carport to mitigate water runoff. Upon the site visit, staff observed a similar carport in the immediate area.

Code Enforcement History

A Code Investigation was opened on March 16, 2022, for Building Without Permit.

Permit History

There are currently no building permits issued for the subject property.

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 AHOD" Residential Single-Family Airport Hazard Overlay District.	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District.	Single-Family Dwelling
South	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District.	Single-Family Dwelling

East	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District.	Single-Family Dwelling
West	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District.	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Near Northwest 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 West End Hope in Action Neighborhood Association and were notified of the case.

Street Classification

W Ashby Place is classified as a local road.

Criteria for Review – Side and Front 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 request is for a detached carport with overhang and gutters to have a 2'10" side setback and a 3'5" front setback. This distance provides adequate spacing between the carport and the neighboring local road.

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 carport having to be moved to meet the 5' minimum side setback requirement and the 10' minimum front setback.

Staff finds an unnecessary hardship due to the size of the lot and the small amount of driveway width available to fit a vehicle.

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 with an overhang of 2' 10" with gutters will observe the spirit of the ordinance. Due to the existing properties and locations of other carports this will observe the spirit of the ordinance.

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 does not find evidence that the requested variance would alter the essential character of the district. Properties located along W Ashby Place all maintain carports

within the distance from the side property line due to the size of the lots, therefore the request would not alter the essential character of the neighborhood.

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 limited size of the lot and the width available for a carport. The variance request is not merely financial.

Alternative to Applicant's Request

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

Staff Recommendation – Side and Front Setback Variance

Staff recommends **Approval** in **BOA-22-10300082** based on the following findings of fact:

1. The carport is setback 2' 10" and includes gutters to mitigate the water runoff; and
2. The carport does not appear out of character for the area; and
3. Other properties in the surrounding area appear to have similar carports in place within the same distance.