

Case Number:	BOA-22-10300115
Applicant:	Jorge Cervantes
Owner:	Jorge Cervantes Jr & Monica
Council District:	4
Location:	6006 Reefridge Place
Legal Description:	Lot 12, Block 026, NCB 15293
Zoning:	"R-6 MLOD-2 MLR-1 AHOD" Residential Single Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Case Manager:	Vincent Trevino, Senior Planner

### **Request**

A request for a 4' variance from the 5' minimum side setback requirement, as described in Section 35-370(b)(1), as to allow a carport with overhang and gutters to be 1' from the side property line.

### **Executive Summary**

The applicant has constructed a 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**

There are no code violations for this property.

### **Permit History**

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

### **Zoning History**

The subject property was annexed into the City of San Antonio by Ordinance 41419, dated December 25, 1972, and zoned TEMP "R-1" Single-Family Residence District. Upon adoption of the 2001 Unified Development Code, the zoning converted from TEMP "R-1" Residence District to the current "R-6" Residential Single-Family District, established by Ordinance 93881, dated May 3, 2001.

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

Existing Zoning	Existing Use
"R-6 MLOD-2 MLR-1 AHOD" Residential Single Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District.	Single-Family Dwelling

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

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	"R-6 MLOD-2 MLR-1 AHOD" Residential Single Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District.	Single-Family Dwelling
South	"R-6 MLOD-2 MLR-1 AHOD" Residential Single Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District.	Single-Family Dwelling
East	"R-6 MLOD-2 MLR-1 AHOD" Residential Single Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District.	Single-Family Dwelling
West	"R-6 MLOD-2 MLR-1 AHOD" Residential Single Family 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 Port San Antonio Area Regional Center Plan and is currently designated Low Density Residential in the future land use component of the plan. The subject property is located within the People Active in Community Effort Neighborhood Association and were notified of the case.

### **Street Classification**

Reefridge 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 carport with overhang and gutters to be 1' from the side property line.**

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. Staff finds an unnecessary hardship due to the size of the driveway.**

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 4' variance from the 5' minimum side setback requirement to allow a carport with overhang and gutters to be 1' from the side property line will observe the spirit of the ordinance. Due to the size of the existing properties 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 35-370(b)(1) in the UDC.

### **Staff Recommendation – Side Setback Variance**

Staff recommends **Approval** in **BOA-22-10300115** based on the following findings of fact:

1. The applicant is requesting a variance prior to obtaining a building permit; and
2. There is a limited amount of space available to comply with the side setback and to develop a dual carport; and
3. The structure will conform to the front setback requirements.