

Case Number:	BOA-22-10300106
Applicant:	Paul Flynn
Owner:	Jennifer & Ramiro Martinez
Council District:	1
Location:	343 Viendo
Legal Description:	Lot 20, Block 224, NCB 3951
Zoning:	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District
Case Manager:	Richard Bautista-Vazquez, Planner

Request

A request for a 4' 10" variance from the 5' minimum side setback requirement, as described in Section 35-310.01, to allow structure with overhang and gutters to be 2" from the side and rear property lines.

Executive Summary

The subject property is located on Viendo Street and contains a single-family residence on a corner lot. The applicant constructed an attached carport on the side of the existing residence. During a site visit conducted by staff, it was observed that the carport only maintained 2" from the side property line. A carport is required to maintain 5' to the side property line. Staff also observed similar styled carports in the area. An alleyway was also observed in the rear of the property which measured 9'8" in width.

Code Enforcement History

INV-PBP-22-3100001649 was opened on 04/20/2022.

Permit History

A variety of building permits were pulled for the subject property.
The issuance of the permit is pending the outcome of the Board of Adjustment Meeting.

Zoning History

The subject property is located within the original 36 square miles of the City of San Antonio and zoned “B” Residential District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “B” Residence District converted to “R-4” Residential Single-Family District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence

Surrounding Zoning/Land Use

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

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Near Northwest Community Plan and is designated "Urban Low Density Residential" in the future land use component of the plan. The subject property is located within the boundary of the Los Angeles Heights Neighborhood Association and they have been notified of the request.

Street Classification

Viendo 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. The applicant requested variance would allow a carport to be 2' from the side and rear property lines. 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 being reduced to maintain a 5' side setback. This would decrease the square footage, depth, and width of the carport and would not allow for adequate spacing for a vehicle. This would result in an unnecessary hardship.

- 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. A 4' 10" variance from the 5' minimum setback requirement will observe the spirit of the ordinance and will not adversely affect surrounding properties in the immediate area.

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 2” setback from the side property line, respectively. This will not alter the essential character of the district as there are similar carports in the area with similar 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 due to unique circumstances existing on the property. The carport cannot be developed with the existing setback requirements as there is insufficient space.

Alternative to Applicant’s Request

The alternative to the applicant’s request is to conform to the setback requirements listed in Section 35-310.

Staff Recommendation –Side Setback Variance

Staff recommends **Approval** in for a 4' 10" variance from the 5' minimum side setback requirement to allow structure with overhang and gutters to be 2" from the side and rear property lines. **BOA-22-10300106** based on the following findings of fact:

1. A side setback of 2” would provide enough spacing between structures on the subject property and the local road; and
2. Carports are observed in the immediate area therefore the request does not appear to alter the essential character of the neighborhood.