

Case Number:	BOA-22-10300158
Applicant:	Marcelino Parra
Owner:	Marcelino & Herlinda Parra
Council District:	4
Location:	1401 Kendalia Avenue
Legal Description:	Lot 10, NCB 10013
Zoning:	“R-4 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 District
Case Manager:	Vincent Trevino, Senior Planner

Request

1) A request for a 4’ variance from the minimum 5' side setback requirement, as described in Section 35-310.01, to allow a carport with overhang and gutters to be 1' from the side property line. 2) A request for a 7’ variance from the minimum 15’ clear vision requirement, as described in Section 35-514(a)(2) to allow a fence to be 8’ from the curb.

Executive Summary

The subject property is located at the intersection of Kendalia Avenue and Warden Street and contains a single-family residence. The applicant obtained a building permit (**RES-CRT-PMT22-32201073**) and began construction of the carport. However, upon a site visit by the building inspection team for a framing inspection, it was determined that the framing was set at 1’ from the side property line. The building inspector also noted that fire treated wood would be required due to the location of the carport less than 2’ from the side property line. There is 22 inches between the side property line and the post of the carport.

Code Enforcement History

There are no relevant code compliance cases for the subject property.

Permit History

A variety of building permits were pulled for the subject property.

Zoning History

The property was annexed into the City of San Antonio by Ordinance 1391, dated September 23, 1944 and zoned “B” Single-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “B” Residence District converted to the current “R-4” Residential Single-Family District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-4 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 District	Single-Family Residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-4 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 District	Single-Family Residence
South	“R-4 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 District	Single-Family Residence
East	“R-4 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 District	Single-Family Residence
West	“R-4 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 District	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located in the Nogalitos/South Zarzamora Plan and is designated “Low Density Residential” in the future land use component of the plan. The subject property is located within the Tierra Linda Neighborhood Association and were notified.

Street Classification

Kendalia Avenue 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 has requested a variance to allow a carport with overhang and gutters to be 1’ from the side property line, which would not be contrary to the public interest. This distance does not provide adequate spacing between the new structure and neighboring property thus appears to be contrary to the public interest.

The alternate would be to relocate the structure and maintain 3’ from the side property line. This would reduce potential adverse impacts such as water runoff along with fire and safety hazards to adjacent properties.

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 moved to maintain a 5’ side setback. This would result in an unnecessary hardship.

The alternate recommendation would allow for a side addition to be located 3’ from the side property line which alleviates the unnecessary hardship presented due to the subject property having a duplex, with two separate small yards.

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 proposed setback of 1” does not appear to observe the spirit of the ordinance as this will cause the structure to be too close to the adjacent property.

Staff finds that the alternate recommendation will observe the spirit of the ordinance and substantial justice will be done. The alternate recommendation will provide sufficient spacing to the side property line. In addition, the structure has gutters which prevents water run off to the adjacent property.

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 detached accessory structure will maintain 1’ from the side property line. This will cause the structure to be too close to the side property line which may injure adjacent conforming properties.

The alternate of a 3’ side setback does not appear to alter the essential character of the district. Other structures in the surrounding area appear to maintain a 3’ side setback therefore the alternate recommendation appears to align closely with the existing 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. The request does not appear to be merely financial.

Alternative to Applicant’s Request

The alternative to the applicant’s request is to conform to the setback requirements listed in Section 35-310.01 and clear vision requirements in Section 35-514(a)(2).

Staff Recommendation –Side Setback Variance

Staff recommends Denial **with an Alternate Recommendation of a 2’ variance from the minimum 5’ side setback requirement to allow a detached accessory structure to be 3’ from the side property line in BOA-22-10300158** based on the following findings of fact:

1. The structure is currently 1' from the side property line; and
2. A side setback of 3' would provide adequate spacing between the subject property and the neighboring property; and
3. A side setback of 3' does not appear to alter the essential character of the neighborhood.