

Case Number:	BOA-22-10300203
Applicant:	Luis Faraklas, P.E.
Owner:	Rafael Guerra III
Council District:	10
Location:	16915 Vista Forest Drive
Legal Description:	Lot 35, Block 3, NCB 17790
Zoning:	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District
Case Manager:	Joseph Leos, Planner

Request

A request for a 5’ variance from the 10' minimum front setback, as described in Section 35-310.01, to allow an attached carport to be 5’ from the back of the sidewalk.

Executive Summary

The subject property is located along Vista Forest Drive near Judson Road. A Zoning UDC Investigation began because the applicant constructed an attached carport without pulling building permits. Carports are required to be setback 10’ from the front property line, and the existing carport is currently 5’. Upon site visits, staff observed that there were no other carports in the immediate area.

Code Enforcement History

PMT-Building Without A Permit-May 2022

Zoning UDC Investigation- Property Setback- May 2022

The issuance of a building permit is pending the outcome from the Board of Adjustments

Permit History

Residential Building Permit-September 2022

Zoning History

The subject property was annexed into the City of San Antonio by Ordinance 83132, dated December 30, 1995, and originally zoned Temporary “R-1” Single-Family Residence District. The property rezoned under Ordinance 86429, dated August 14, 1997 from Temporary “R-1” Residential Single-Family District to “R-1” Single-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “R-1” Single-Family Residence District converted to the current “R-6” Residential Single-Family District

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
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North	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
South	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
East	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
West	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the North Sector Plan and is designated “Suburban Tier” in the future land use component of the plan. The subject property is located within the boundary of the Vista Neighborhood Association, and they have been notified of the request.

Street Classification

Vista Forest Drive is classified as a local road.

Criteria for Review – Rear 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 is requesting a variance to the front setback to allow an attached carport to be 5’ from the back of the sidewalk. This spacing does not provide suitable spacing between the carport and curb which is 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 building the carport 10’ from back of the sidewalk or demolishing the carport, which would not 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. The carport would be 5’ from the back of the sidewalk, which does not observe the spirit of the ordinance because it would be too close to the sidewalk.

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 carport will maintain 5' from the back of the sidewalk. This distance does not provide adequate spacing, which is likely to injure adjacent conforming properties and alter the essential character of the district. Additionally, no other carports were found in the immediate area.

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 not due to unique circumstances existing on the property. The circumstances do not appear to be the results of general conditions in the district in which the property is located.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Setbacks per Section 35-310.01 of the UDC.

Staff Recommendation – Front Setback Variance

Staff recommends Denial in BOA-22-10300203 based on the following findings of fact:

1. The carport would be 5' from the back of the sidewalk, which does not provide the adequate spacing from the street and curb; and
2. No other carports were found in the immediate area; and
3. The carport will injure adjacent conforming properties and may alter the essential character of the district.