

Case Number:	BOA-23-10300093
Applicant:	Israel Diaz
Owner:	Israel Diaz
Council District:	5
Location:	222 Hawthorne Street
Legal Description:	Lot 15, Block 5, NCB 6567
Zoning:	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Case Manager:	Mirko Maravi, Principal Planner

### **Request**

A request for 1) a 9'-2" variance from the minimum 10' front setback, as described in Sec 35-516(g), to allow a carport with a 10" front setback, 2) a 4'-11" variance from the minimum 5' side setback, as described in Sec 35-370(b)(1), to allow a carport with a 1" side setback, and 3) a 5' variance from the minimum 15' clear vision, as described in Sec. 35-514 (a)(2), to allow a driveway with a 10' clear vision.

### **Executive Summary**

The subject property is located south of downtown, east of IH-35 and west of Pleasanton Road. The area has an established fence line that are predominantly small lots. The property owner built a carport with no permits and was cited by Code Compliance. Upon site visits, staff found the clear vision was out of compliance.

### **Code Enforcement History**

INV-ZPS-23-3160000039 – April 4, 2023 – Setback Investigation (Carport)

INV-PTI-23-3090000067 – April 5, 2023 – Building without a Permit (Carport)

### **Permit History**

The issuance of a Carport Permit is Pending the Outcome of the Board of Adjustment.

### **Zoning History**

The property was part of the original 36 square miles of the City of San Antonio and zoned “C” Apartment District. The property was rezoned by Ordinance 85113, dated November 7, 1996 to the “R-7” Small Lot Home District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “R-7” Small Lot Home 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-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence

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

Orientation	Existing Zoning District(s)	Existing Use
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North	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
South	“R-6 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
East	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
West	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence

### **Comprehensive Plan Consistency/Neighborhood Association**

The subject property is under the South Central San Antonio Community Plan and is designated as “Low Density Residential” in the future land use component of the plan. The subject property is in the St. Leo’s Neighborhood Association, and they were notified of the request.

### **Street Classification**

Hawthorne Street is classified as a local street.

### **Criteria for Review – Front and Side Carport Setbacks and Clear Vision 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 reduced setbacks are contrary to public interest as it does not leave enough space between abutting property and city right of way.

**The reduced clear vision does not create a general safety to the public as it leaves 10’ for vehicles backing into traffic.**

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*

A literal enforcement of the ordinance would not result in unnecessary hardship. The design of the lot does not provide enough space for a carport and the absence of a carport does not create an unnecessary hardship.

**A literal enforcement of the ordinance would result in an unnecessary hardship as the established fence distance is established in the area would require positioning it further back.**

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. Reducing the setbacks would injure neighboring properties and not meet the spirit of the ordinance.

**The clear vision variance would observe the spirit of the ordinance as it leaves 10' for clear vision into a local street.**

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.*

The reduced side setback would injure neighboring properties and alter the essential character of the district.

**The reduced clear vision would not injure any adjacent properties as it only affects the front portion of the property.**

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 variances are sought are not due to unique circumstances existing on the property. While a carport will not fit on the property, the district was designed as small lots with a small open front yard.

**Staff finds the plight of the owner of the property for which the clear vision variance is sought is due to unique circumstances on the property. The established fence line in the neighborhood permits the reduced clear vision.**

### **Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the Carport Front Setback Regulations under Sec 35-516(g), Carport Side Setback Regulations under Sec 35-370(b)(1), and Clear Vision Regulations under Sec. 35-514 (a)(2) of the UDC.

### **Staff Recommendation – Front and Side Carport Setback Variances**

Staff recommends Denial in BOA-23-10300093 based on the following findings of fact:

1. The essential character of the neighborhood would be altered; and
2. The reduced side setback injures neighboring properties.

### **Staff Recommendation – Clear Vision Variance**

Staff recommends **Approval** in **BOA-23-10300093** based on the following findings of fact:

1. The essential character of the neighborhood established the current clear vision; and
2. The variance would leave 10' of clear vision which allows adequate clear vision into a local street.