

Case Number:	BOA-23-10300229
Applicant:	Domingo Salinas
Owner:	Domingo Salinas
Council District:	5
Location:	114 Southway Drive
Legal Description:	Lot 8, Block 15A, NCB 7259
Zoning:	“R-5 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District
Case Manager:	Vincent Trevino, Senior Planner

### **Request**

A request for 1) a 3’-10” variance from the minimum 5' side setback requirement, as described in section 35-310.01, to allow a carport to be 1’-2” from the side property line, and 2) a 9’-11” variance from the minimum 10’ front setback, as described in Section 35-310.01, to allow a 1” carport front setback.

### **Executive Summary**

The subject property is located along Southway Drive just west of Nogalitos Street and currently has an existing single-family residence. Built without a permit, the applicant constructed an attached carport which encroaches into the side and front setback. A Zoning UDC Investigation began on July 31, 2023, for a property setback violation.

### **Code Enforcement History**

Building Without a Permit (INV-PBP-23-3100002236) July 31, 2023

### **Permit History**

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

### **Zoning History**

The subject property was located within the original 36 square miles of the City of San Antonio and zoned “B” Residence District. The property was rezoned by Ordinance 76368, dated August 27, 1992, to “R-5” Single-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “R-5” Single-Family Residence District converted to the current “R-5” Residential Single-Family District.

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

Existing Zoning	Existing Use
“R-5 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence

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

Orientation	Existing Zoning District(s)	Existing Use
North	“R-5 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting	Single-Family Residence

	Overlay Military Lighting Region 1 Airport Hazard Overlay District	
South	“R-5 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence
East	“C-3R MLOD-2 MLR-1 AHOD” General Commercial Restrictive Alcoholic Sales Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Service Garage-Automotive
West	“R-5 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence

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

The subject property is in the Nogalitos/South Zarzamora Community Plan and is designated as “Low Density Residential” in the future land use component of the plan. The subject property is within the Palm Heights Neighborhood Association and were notified of the case.

### **Street Classification**

Southway Drive is classified as a local road.

### **Criteria for Review – Side & Front 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 proposed carport would only be 1’-2” from the side property line and 1” from the front property line and 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 not result in unnecessary hardship as the applicant could redesign the carport to comply with the ordinance.

*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 front setback requirement and side setback requirement would injure neighboring properties, as the carport would site too close to the right-of-way and 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.*

The reduced front and side setback would alter the essential character of the district by not adhering to the required 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 variances are sought are not due to unique circumstances existing on the property.

#### **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 – Side & Front Setback Variance**

Staff recommends Denial in BOA-23-10300229 based on the following findings of fact:

1. The reduced front and side setback would alter the essential character of the district.