

Case Number:	BOA-23-10300203
Applicant:	Margarita Zamudo
Owner:	Margarita and Jorge Zamudio
Council District:	7
Location:	122 Overhill Drive
Legal Description:	The east 30 feet of Lot 6 and the west 24 feet of Lot 7, Block 32, NCB 9592
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:	Richard Bautista-Vazquez, Planner

Request

A request for 1) a 4'-9" variance from the minimum 5' side setback requirement, as described in Section 35-310.01, to allow a carport to be 3" from the side property line and 2) a 4' variance from the minimum 10' front setback, as described in Section 35-310.01, to allow a carport to be 6' from the front property line.

Executive Summary

The subject property is located on a lot on Overhill Drive and contains a single-family dwelling. Granting the side variance will allow a carport to be 3" from the side property line and granting the front setback variance will allow the structure to be 6' from the front property line. A permit was issued on 05/08/2023 for a carport. Upon inspection, it was noted that the carport was constructed encroaching into the side and front setback.

Code Enforcement History

There are no code violations for this property.

Permit History

RES-CRT-PMT23-32200736 Carport Permit 05/08/2023

RES-FEN-PMT22-31900500 Residential Fence Permit 05/06/2022

Zoning History

The subject property was annexed into the City of San Antonio by Ordinance 7598 dated July 21, 1948 and zoned “B” Residence 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 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single Family Dwelling

Surrounding Zoning/Land Use

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

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the West/Southwest Sector Plan and is designated as “General Urban Tier” in the future land use component of the plan. The subject property is located within the University Park Neighborhood Association, and they were notified of the case.

Street Classification

Overhill Drive is classified as a local road.

Criteria for Review – Front and 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 applicant is requesting a 4’ variance from the minimum 10’ front setback requirement to allow a carport to be 6’ from the front property line, which does not appear to be contrary to the public interest as there is adequate space remaining from the property line to the proposed structure.

The applicant is also requesting a side setback variance of 4'-9" to allow a structure to be 3" from the side property line. This request is contrary to the public interest as the proposed structure will be too close to the adjacent neighboring property.

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

Staff finds an unnecessary hardship for the front setback variance due the size of the lot. A carport cannot be built without obtaining a variance. The proposed structure will have ample space to extend into the front.

Staff finds no hardship on the side setback variance as the structure is proposed and making a side addition will bring it too close to the side property line.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

The requested front setback variance is to allow a structure to be closer to the front property line. The request will observe the spirit of the ordinance because the proposed structure will still maintain a reasonable distance between the structure and the front property line.

The requested side setback variance will not observe the spirit of the ordinance as the proposed carport will bring it too close the side property line significantly reducing the space between the neighboring 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.*

Staff does not find evidence that the requested front setback variance would alter the essential character of the district. There will be a remaining 6' of distance from structure to the property line, therefore the request would not alter the essential character of the neighborhood.

Staff does find evidence that the requested side setback variance would alter the essential character of the district. The proposed carport will be too close the property line and may infringe on the neighboring 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.*

The front setback variance is sought is due to unique circumstances existing on the property such proposed addition needing more space due to the configuration of the lot. The variance request is not merely financial.

The side setback variance is sought due to unique circumstances existing on the property such proposed carport needing more space. Granting the variance will cause the proposed addition to be too close to the side property line.

Alternative to Applicant's Request

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

Staff Recommendation – Front Setback Variance

Staff recommends **Approval** in **BOA-23-10300203** based on the following findings of fact:

1. There is a limited amount of space available to comply with the front setback and to develop a carport; and
2. The structure will not substantially injure adjacent properties.

Staff Recommendation – Side Setback Variance

Staff recommends **Denial** in **BOA-23-10300203** based on the following findings of fact:

1. The carport will be too close to the side property line causing possible water runoff on the adjacent neighboring property.