

Case Number:	BOA-23-10300264
Applicant:	Junior Cuevas Duran
Owner:	Junior Cuevas Duran
Council District:	4
Location:	3610 Twining Drive
Legal Description:	Lot 17, Block 14, NCB 14472
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:	Richard Bautista-Vazquez, Planner

Request

A request for 1) a 3' variance from the minimum 5' side setback, as described in Section 35-370(b)(1), to allow a carport with a 2' side setback, and 2) a 6'-8" variance from the minimum 10' front setback, as described in Section 35-516(g), to allow a carport with a 3'-4" front setback.

Executive Summary

The subject property is located along Twining Drive, on the Southwest side of San Antonio. The applicant began constructing a detached carport but was halted by Code Enforcement for building without a permit (INV-PBP-23-3100002988). Staff did not observe any similar carports in the area. A setback violation (INV-ZPS-23-3160001921) was observed by Code Enforcement. Depth of the driveway past the front setback is approximately 21’.

Code Enforcement History

Permit Investigation- Building Without a Permit (INV-PBP-23-3100002988)- 09/14/2023
Zoning - Property Setback (INV-ZPS-23-3160001921) - 09/14/2023

Permit History

The issuance of a building permit is pending the outcome of the Board of Adjustment

Zoning History

The property was annexed into the City of San Antonio by Ordinance 39953 dated October 27, 1971 and was originally zoned Temporary “R-1” Single-Family Residence District. The zoning converted from Temporary “R-1” Single-Family Residence District to the current “R-6” Residential Single-Family District upon adoption of the 2001 Unified Development Code, established by Ordinance 93881, dated May 3, 2001.

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 Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence
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	“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
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 West/ Southwest Sector Plan and is designated as “Suburban Tier” for future land use. The subject property is not located within a registered neighborhood association.

Street Classification

Twinning 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 public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest represented by setback requirements to prevent water runoff and adequate spacing between properties. The applicant is requesting a variance to the front setback and side to allow a detached carport to be 2' from the side property line and 3'-4" from the front property line. The carport in its current location may be contrary, as the mitigation of storm water runoff may fall on adjacent property and right of way.

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

Staff does not find any special conditions on the subject property. The front property line is 10' inwards from the curb. It appears that there is adequate space for the front and side minimum setback to be met if the size of the carport is reduced.

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 granting of the front and side setback variances may not observe the spirit of the ordinance, as there are no similar carports located in the surrounding area.

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 be 2' from the side property line and 3'-4" from the front property line. This may injure the adjacent properties, as no other carports imposing into the setback were found in the immediate vicinity. The request seems to be out of character with the district.

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, such as limited spacing on the property. Upon staff site visit it was observed that there is reasonable space to meet the minimum front and side setback minimums.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Setback Regulations for Accessory Structures under Section 35-370(b)(1) and Section 35-516(g) of the UDC.

Staff Recommendation – Front and Side Setback Variance

Staff recommends Denial in BOA-23-10300264 based on the following findings of fact:

1. The property has suitable spacing to meet the required setbacks; and
2. No other similar carports were observed in the area.