

Case Number:	BOA-21-10300196
Applicant:	Jesus Borbon
Owner:	Jesus Borbon
Council District:	10
Location:	5606 Spring Sunshine
Legal Description:	Lot 2, Block 12, NCB 17208
Zoning:	"RM-4 AHOD" Residential Mixed Airport Hazard Overlay District
Case Manager:	Roland Arsate, Planner

### **Request**

A request for a 9' 10" variance from the minimum 10' front setback requirement, as described in Section 35-310, to allow a carport to be 2" front the front set back.

### **Executive Summary**

The subject property is located on Spring Sunshine Street near the intersection of Spring Mist Street. There is a single-family residence on the subject property and the applicant has constructed a carport that encroaches into the front setback requirement. In December 2021, Code Enforcement investigated the carport and instructed the applicant to obtain a permit. Upon the permitting process, it was determined the applicant would need to apply for a variance. Upon staff's site visit, it was observed that posts of the carport were located in the Right-Of-Way. Since the initial visit, the homeowner relocated the posts back onto his property so that it could be heard by the board, of which a second site visit was completed to confirm relocation of the post. The posts of the carport are now two inches from the front property line.

### **Code Enforcement History**

December 2021 – Building without a permit /Carport

### **Permit History**

November 2005 – Mechanical permit

### **Zoning History**

The subject property was annexed into the City of San Antonio by ordinance 42200 dated June 13, 1973 and zoned "R-6" Townhouse Residence District. Upon adoption of the 2001 Unified Development Code, the zoning converted from "R-6" Townhouse Residence District to the current "RM-4" Residential Mixed District.

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

Existing Zoning	Existing Use
"RM-4 AHOD" Residential Mixed Airport Hazard Overlay District	Single-Family Residence

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

Orientation	Existing Zoning District(s)	Existing Use
North	"RM-4 AHOD" Residential Mixed Airport Hazard Overlay District	Single-Family Residence
South	"RM-4 AHOD" Residential Mixed Airport Hazard Overlay District	Single-Family Residence
East	"RM-4 AHOD" Residential Mixed Airport Hazard Overlay District	Single-Family Residence
West	"RM-4 AHOD" Residential Mixed 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 not located within a Neighborhood Association and were notified of the case.

### **Street Classification**

Spring Sunshine Street is classified as a local road.

### **Criteria for Review - 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 applicant is requesting a variance to the front setback for a detached carport in the front yard. The carport being proposed is to be 2” away from the front property line and there are no side setback issues which is not 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 having to move the structure 10’ away from front property line. This would result in not enough room to cover the vehicles the owner is trying to protect due to limited amount of driveway available in the area.**

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. A 2” front setback will observe the spirit of the ordinance, as the structure is made of fire rated materials and does not encroach on the neighboring properties and does not pose a fire/safety hazard to any neighboring structures.**

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 finds the request for a 9' 10" variance proposed is of adequate space to the front property line and is not likely to affect the adjacent neighboring properties. It will not negatively affect residential structures will not alter the character of 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 the small amount of available space within the driveway to safely house vehicles without encroaching into the front setback.**

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

The alternative to the applicant's request is to conform to the Lot and Building Dimensions of the UDC Section 35-310.01 and demolish the carport as there is not enough driveway area.

#### **Staff Recommendation – Front Setback Variance**

Staff recommends **Approval** in **BOA-21-10300196** based on the following findings of fact:

1. The carport will be constructed of fire rated materials; and
2. The accessory structure will not negatively affect neighboring properties; and
3. There is minimum amount of space available to comply with the front setback and allow the use of a carport.