

Case Number:	BOA-22-10300001
Applicant:	Ernesto Martinez
Owner:	Ernesto and Sylvia Martinez
Council District:	4
Location:	5543 Aspen Valley Drive
Legal Description:	Lot 9, Block 101, NCB 15270
Zoning:	“NP-8 MLOD-2 MLR-1 AHOD” Neighborhood Preservation Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District
Case Manager:	Rebecca Rodriguez, Senior Planner

Request

A request a for a 16’ variance from the minimum 20’ front setback required by the “NP-8” Neighborhood Preservation District, as described in Section 35-353, to allow a carport to be 4’ from the front property line.

Executive Summary

The subject property is located along Aspen Valley Drive near Lackland Airforce Base. Aware that they cannot maintain the 20’ front setback requirement required by the “NP-8” Neighborhood Preservation District, the applicant applied for a variance prior to commencing the construction of the carport. The proposed carport would measure 620 square feet and will maintain the required side setback of 5’. The request is to allow the structure to be 4’ from the front property line. During the site visit conducted by staff, staff observed numerous carports in close proximity to the subject site that did not meet the minimum front setback requirement.

Code Enforcement History

There are no relevant Code Enforcement investigations for the subject property.

Permit History

There are no relevant permits pulled for the subject property.

Zoning History

The property was annexed into the City of San Antonio by Ordinance 41419, dated December 26, 1972, and zoned TEMP “R-1” Single-Family Residence District. The property was rezoned by Ordinance 93213, dated January 11, 2001, to “R-1A” Single-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “R-1A” Single-Family Residence District converted to the current “NP-8” Neighborhood Preservation District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“NP-8 MLOD-2 MLR-1 AHOD” Neighborhood Preservation 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	“NP-8 MLOD-2 MLR-1 AHOD” Neighborhood Preservation Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence
South	“NP-8 MLOD-2 MLR-1 AHOD” Neighborhood Preservation Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence
East	“NP-8 MLOD-2 MLR-1 AHOD” Neighborhood Preservation Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence
West	“NP-8 MLOD-2 MLR-1 AHOD” Neighborhood Preservation 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 United Southwest Communities Plan and is designated “Low Density Residential” in the future land use component of the plan. The subject property is located within the boundary of the Valley Forest Neighborhood Association and People Active in Community Effort, and they have been notified of the request.

Street Classification

Aspen Valley Drive is classified as a local road.

Criteria for Review – 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 applicant is requesting a variance to the front setback to allow a carport to be 4’ from the front property line. The structure meets the minimum side setback requirement and will have adequate spacing between the structure and front property line, which does not appear to be 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 building the carport twenty feet from the front property line. Staff finds an unnecessary hardship due to the zoning district’s requirement to maintain a twenty-foot setback along with the size of the lot, which prevents the development of a front carport.

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 applicant has not commenced construction on the carport. The proposed carport would maintain 4' from the front property line and meets the side setback requirement. The spirit of the ordinance will be observed as there will still be reasonable space between the carport and front property line.

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 variance would alter the essential character of the district. Carports encroaching into the required 20' front setback were observed throughout the immediate area. The proposed 4' front setback for the attached structure does not appear to injure adjacent properties.

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 the size of the lot and is not merely financial.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Zoning District Design Regulations of the UDC Section 35-310 and Section 35-353.

Staff Recommendation – Front Setback Variance

Staff recommends **Approval** in **BOA-22-10300001** based on the following findings of fact:

1. The structure has not been constructed; and
2. The structure conforms to the side setback requirement; and
3. Numerous carports were observed in the surrounding vicinity therefore the structure does not appear to alter the essential character of the neighborhood.