



City of San Antonio

## Agenda Memorandum

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**Agenda Date:** March 18, 2024

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

**DEPARTMENT HEAD:** Michael Shannon

**CASE NUMBER:** BOA-24-10300018

**APPLICANT:** Eunice Hernandez

**OWNER:** Eunice Hernandez

**COUNCIL DISTRICT IMPACTED:** District 2

**LOCATION:** 514 Gulf Street

**LEGAL DESCRIPTION:** The north 99.21 feet of Lots 17A and 17 B, Block 17, NCB 6375

**ZONING:** “R-4 EP-1 MLOD-3 MLR-2 AHOD” Residential Single-Family Facility  
Parking/Traffic Control Martindale Army Airfield Military Lighting Overlay Military Lighting  
Region 2 Airport Hazard Overlay District

**CASE MANAGER:** Melanie Clark, Planner

**A request for**

1) A 2’-5” variance from the minimum 5’ side setback to allow an addition to be 2’-7” from the side setback. (UDC Section 35-310.01)

2) A 3’-9” variance from the minimum 5’ side setback to allow a carport to be 1’-3” from the side setback. (UDC Section 35-310.01)

**Executive Summary**

The subject property is located east of North New Braunfels Avenue, near North Gevers Street, on Gulf Street. On January 25, 2024, the applicant, also being the property owner, was cited by Code Enforcement for building an addition onto their residence without a permit. The existing residential structure was built in 1924 with 670 square feet of total living area. The applicant hired a

contractor to complete the addition however, the contractor neither obtained the permits nor completed the work. Although an administrative variance may have been possible for the rear yard side setback, during Staff's site visit, the applicant's carport was also found to have been built without a permit and within 5' of the front side setback. Dated street view photography shows the carport was built after 2016.

**Code Enforcement History**

INV-PBP-24-3100000387-Investigation for Building without a permit.

**Permit History**

The applicant has not yet applied for the building permit.

**Zoning History**

The subject property was part of the original 36 square miles of the City of San Antonio 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**

"R-4 EP-1 MLOD-3 MLR-2 AHOD" Residential Single-Family Facility Parking/Traffic Control Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

**Existing Use**

Single-Family Residential

**Surrounding Property Zoning/ Land Use**

**North**

**Existing Zoning**

"R-4 EP-1 MLOD-3 MLR-2 AHOD" Residential Single-Family Facility Parking/Traffic Control Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

**Existing Use**

Single-Family Residential

**South**

**Existing Zoning**

"R-4 EP-1 MLOD-3 MLR-2 AHOD" Residential Single-Family Facility Parking/Traffic Control Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

**Existing Use**

Single-Family Residential

**East**

**Existing Zoning**

“R-4 EP-1 MLOD-3 MLR-2 AHOD” Residential Single-Family Facility Parking/Traffic Control  
Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard  
Overlay District

**Existing Use**

Single-Family Residential

**West**

**Existing Zoning**

“R-4 EP-1 MLOD-3 MLR-2 AHOD” Residential Single-Family Facility Parking/Traffic Control  
Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard  
Overlay District

**Existing Use**

Single-Family Residential

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Arena District/Eastside Plan and is designated as “Medium Density Residential” in the future land use component of the plan. The subject property is located within the notification area of Harvard Place Eastlawn Neighborhood Association, and they have been notified of the request.

**Street Classification**

Gulf Street is classified as a local road.

**Criteria for Review – 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 is represented by allowing the addition to remain 2’-7” from the rear yard side setback to retain alignment with the original structure, also within 5’ of side setback. Additionally, the variance will provide sufficient room for proper maintenance and distance from neighboring property.

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

A literal enforcement of the ordinance by adjusting the addition to meet the minimum setback requirements would result in the new structure being uneven with the main residential structure.

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 structure would be 2’-7” from the property line, which observes the spirit of the ordinance

due to the size of the lot, the location of the existing dwelling and the square footage of the new structure. The addition will also abide by the rear setback.

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 addition will be 2'-7" from the rear yard side setback and due to the size of the lot, the location of the existing residential dwelling and the square footage of the new structure, would not alter the essential 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 proper the variance will provide sufficient room for proper maintenance and distance from neighboring 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. The size of the lot as well as the location of the existing residential structure has placed limitations on expansion of the property.

### **Criteria for Review – Carport 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. The carport is 1'-3" from the side property line and is contrary to the public interest as it does not provide space for maintenance or gutters and will cause rainwater to drain into abutting property.

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 as the applicant would still have room for tandem parking with room to expand towards the rear of the property.

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 side setback requirement would injure neighboring properties, as the carport is too close to the adjacent property and would cause excess water runoff.

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 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 proper the variance will provide sufficient room for proper maintenance and distance from neighboring property is located.*

The side setback variance is not sought due to unique circumstances existing on the property as there is sufficient room for single vehicle carport with additional room towards the rear to expand for an additional parking.

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

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

### **Staff Recommendation – Side Setback Variance**

Staff recommends Approval in BOA-24-10300018 based on the following findings of fact:

1. The essential character of the neighborhood would not be altered; and
2. The variance will provide sufficient room for proper maintenance and distance from neighboring property.

### **Staff Recommendation – Carport Side Setback Variance**

Staff recommends Denial in BOA-24-10300018 based on the following findings of fact:

1. The carport will be too close the side property line causing possible water runoff onto the neighboring property; and
2. There is enough space for tandem parking with room to expand towards the rear of property.

