



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** April 15, 2024

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

**DEPARTMENT HEAD:** Michael Shannon

**CASE NUMBER:** BOA-24-10300040

**APPLICANT:** Jose Salazar

**OWNER:** Jose Salazar

**COUNCIL DISTRICT IMPACTED:** District 3

**LOCATION:** 3810 East Palfrey Avenue

**LEGAL DESCRIPTION:** Lot 3, Block 5, NCB 13313

**ZONING:** "R-5 MLOD-3 MLR-2" Residential Single-Family Martindale Army Airfield  
Military Lighting Overlay Military Lighting Region 2 District

**CASE MANAGER:** Melanie Clark, Planner

**A request for**

1) A 4'-11" variance from the minimum 5' side setback to allow an attached carport to be 1" from the side setback. (Section 35-310.01)

2) A 9'-11" variance from the minimum 10' front setback to allow a 1" attached carport front setback. (Section 35-310.01)

**Executive Summary**

The subject property is located east of Goliad Road, west of South WW White Rd on East Palfrey Avenue. The applicant, also being the property owner, is requesting a 4'-11" variance to extend the width of the existing carport 1" from the side setback to allow more coverage and accessibility for vehicles. Additionally, during site visit, Staff found that the existing carport required a 9'-11" variance due to being 1" from the front setback. The issuance of a building

permit is pending the outcome of the Board of Adjustment. The front setback appears to be the historical standard in the area, however since the property owner is extending their carport, it was added to the request.

### **Code Enforcement History**

No Code Enforcement history found.

### **Permit History**

The applicant has not yet applied for the building permit.

### **Zoning History**

The subject property was annexed into the City of San Antonio by Ordinance 18115, dated September 24, 1952, and zoned "A" Single-Family residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned "A" Single-Family Residence District converted to the current "R-5" Residential Single-Family District.

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

#### **Existing Zoning**

"R-5 MLOD-3 MLR-2" Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 District

#### **Existing Use**

Single-Family Residential

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

#### **North**

#### **Existing Zoning**

"R-5 MLOD-3 MLR-2" Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 District

#### **Existing Use**

Single-Family Residential

#### **South**

#### **Existing Zoning**

"R-5 MLOD-3 MLR-2" Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 District

#### **Existing Use**

Single-Family Residential

#### **East**

#### **Existing Zoning**

"R-5 MLOD-3 MLR-2" Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 District

#### **Existing Use**

Single-Family Residential

## **West**

### **Existing Zoning**

"R-5 MLOD-3 MLR-2" Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 District

### **Existing Use**

Single-Family Residential

### **Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Brooks Regional Center Area and is designated as "Low Density Residential" in the future land use component of the plan. The subject property is located within the notification area of the Highland Hills Neighborhood Association, and they have been notified of the request.

### **Street Classification**

East Palfrey Avenue is classified as a local road.

### **Criteria for Review – Front and Side Setback**

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 adhering to setback requirements to provide adequate spacing between properties and right-of-way. The applicant is requesting a 1" side and front setback for an attached carport. The request is not contrary to the public interest as the historically established carport front setback in the area is at 1" and the neighboring structure has sufficient space from the proposed carport.

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

A literal enforcement of the ordinance as applied would require the applicant to abide by the 5' side setback and 10' front setback regulations, which would result in an unnecessary hardship as the carport width would only allow one (1) vehicle with limited coverage.

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 and front setback requirement would not injure neighboring properties, as the adjacent structure is built beyond the required side setback and the historical placement of the carports in the area are at the current 1" front 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.*

The side and front setbacks would not alter the essential character of the district as other similar carport front setbacks were observed and sufficient distance from adjacent structure will exist.

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 as the historical placement of the front carport setbacks and the limited space for two covered vehicles.

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

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

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

Staff recommends Approval in BOA-24-10300040 based on the following findings of fact:

1. The variance will not alter essential character of the district as the historical front carport setbacks are at the current 1" front property line; and
2. Significant distance exists between the property line and the adjacent structure.