

Case Number:	BOA-23-10300338
Applicant:	Christian Carrillo
Owner:	Carrillo Christian & Hernandez Angelica
Council District:	7
Location:	5627 Brookhill Street
Legal Description:	Lot 24, Block 29, NCB 14523
Zoning:	“R-5 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Case Manager:	Richard Bautista-Vazquez, Planner

### **A request**

For a 4’-2” variance from the minimum 5’ side setback, as described in Section 35-310.01, to allow a carport to be 10” from the side setback.

### **Executive Summary**

The subject property is located along Brookhill Street, southeast of the intersection of Ingram Road and Callaghan Road. The applicant is requesting a 4’-2” variance from the minimum 5’ side setback to allow an attached carport to be 10” from the side property line. There was a violation issued by code compliance for the carport being constructed prior to the issuance of a permit. Upon staff site visits, various similar styled carports were observed, however it appears they are nonconforming structures.

### **Code Enforcement History**

INV-PBP-23-310004442 - PMT-Building Without a Permit-Pending Created On 12/06/2023

INV-PBP-23-310004441 – PMT-Building Without a Permit Created On 12/06/2023

### **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 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 was converted to “R-5” Residential Single-Family District.

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

#### **Existing Zoning**

“R-5 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

#### **Existing Use**

Single-Family Dwelling

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

#### **North**

#### **Existing Zoning District(s)**

“R-5 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

#### **Existing Use**

Single-Family Dwelling

**South****Existing Zoning District(s)**

“R-5 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay  
Military Lighting Region 2 Airport Hazard Overlay District

**Existing Use**

Single-Family Dwelling

**East****Existing Zoning District(s)**

“R-5 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay  
Military Lighting Region 2 Airport Hazard Overlay District

**Existing Use**

Single-Family Dwelling

**West****Existing Zoning District(s)**

“R-5 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay  
Military Lighting Region 2 Airport Hazard Overlay District

**Existing Use**

Single-Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is not located in a West/Southwest Sector Plan and is designated as “General Urban Tier” in the future land use component of the plan. The subject property is located within the Culebra Park Neighborhood Association and were notified of the case.

**Street Classification**

Brookhill 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. The proposed carport would only be 10” from the side property line and is contrary to the public interest as it does not provide space for maintenance and would cause rainwater would 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 single carport and room in front to expand out for additional vehicle.

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. Various carports were observed in the area that did not abide by the current UDC standards, however they appear to be nonconforming structures.

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.*

The side setback variance is not sought due to unique circumstances existing on the property as there is sufficient room for single vehicle carport.

**Alternative to Applicant's Request:**

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

**Staff Recommendation – Side Setback Variance**

Staff recommends Denial in BOA-23-10300338 based on the following findings of fact:

1. The carport will be too close to the side property line causing possible water runoff on the adjacent neighboring property.
2. There is enough room to meet the required setbacks.