



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** March 4, 2024

**In Control:** Board of Adjustment Meeting

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**DEPARTMENT:** Development Services Department

**DEPARTMENT HEAD:** Michael Shannon

**CASE NUMBER:** BOA-24-10300010

**APPLICANT:** Maria Martinez

**OWNER:** Maria Martinez

**COUNCIL DISTRICT IMPACTED:** District 1

**LOCATION:** 250 Micklejohn Street

**LEGAL DESCRIPTION:** Lot 5, Block 3, NCB 2105

**ZONING:** “R-3 AHOD” Single-Family Residential Airport Hazard Overlay District

**CASE MANAGER:** Melanie Clark, Planner

**A request for**

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

**Executive Summary**

The subject property is located on Micklejohn Street. Code Enforcement opened a Zoning UDC Investigation, INV-ZPS-22-3160003257, on December 13, 2022, due to carport being constructed without a permit and structure being within 5’ of required setback. On January 1, 2024, Code Enforcement initiated an Administrative Hearing case, COD-ADH-REQ24-4300105, on due to non-compliance of accessory structure side setback requirements in accordance with Sec. 35-370. The applicant is seeking the 4’-11” variance to allow the newly constructed carport to remain 1” from the side setback, in lieu of Administrative Hearing. Driveway width is approximately 9’, and the side property line is an additional 3’ past the end of the driveway. A new carport can be built

within 3' of the side setback so long as there is no overhang inside the 3' without a variance. Subject property is located near North Zarzamora Street with Auto Service and Gymnasium in the immediate vicinity. The previously existing carport also is inside the required side setback, however, does have the pole at approximately 2'-5" from the side setback. The previously existing carport and surrounding area carports/structures setback appear to be Nonconforming Structures.

**Code Enforcement History**

Zoning UDC Investigation- Zoning Property Setback (INV-ZPS-22-3160003257)

Administrative Hearing-Zoning Property Setback (COD-ADH-REQ24-4300105)

**Permit History**

The issuance of a building permit is pending the outcome of the Board of Adjustment.

**Zoning History**

The subject property was part of the original 36 square miles of the City of San Antonio and zoned "J" Commercial District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned "J" Commercial District converted to "I-1" General Industrial District. The property was rezoned by Ordinance 2023-02-02-056, dated February 02, 2023, from "I-1" General Industrial District to "R-3" Single-Family Residential District.

**Subject Property Zoning/Land Use**

**Existing Zoning**

"R-3 AHOD" Single-Family Residential Airport Hazard Overlay District.

**Existing Use**

Single-Family Residence

**Surrounding Zoning/Land Use**

**North**

**Existing Zoning District**

"R-3 AHOD" Single-Family Residential Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**South**

**Existing Zoning District**

"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**East**

**Existing Zoning District**

"R-3 AHOD" Single-Family Residential Airport Hazard Overlay District.

**Existing Use**

Single-Family Residences

**West**

**Existing Zoning District(s)**

“R-3 AHOD” Single-Family Residential Airport Hazard Overlay District.

**Existing Use**

Single-Family Residences

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is not within any Community, Sector or Regional Center Plan. The subject property is located within the West End Hope in Action Neighborhood Association and were notified of the case.

**Street Classification**

Micklejohn 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 1” 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 new carport can be built within 3’ of the side setback, without overhang, inside the 3’ without a variance.

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 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.

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

Staff recommends Denial in BOA-24-10300010 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 space for a single carport with additional room for tandem parking.