

Case Number:	BOA-22-10300097
Applicant:	Antonio Leal
Owner:	Antonio Jr & Maria C Leal
Council District:	5
Location:	306 East Baylor
Legal Description:	Lot 2, NCB 7570
Zoning:	"R-6 AHOD" Residential Single Family Airport Hazard Overlay District
Case Manager:	Richard Bautista-Vazquez, Planner

Request

A request for a 4' variance from the minimum 5' side setback requirement, as described in Section 35-310, to allow a carport with overhang and gutters to be 1' from the side property line.

Executive Summary

The subject property is located on East Baylor and the request is for a setback variance for a carport encroaching into the side setback. The applicant has constructed a carport that encroaches into the side setback. As it stands, the carport does not appear to impede any of the surrounding neighbors and no immediate neighbors have voiced any concern. Other carports similar in design were observed in the immediate area of the subject property.

Code Enforcement History

A Permit Investigation was opened on September 16, 2021, for Building Without A Permit and resolution is pending.

Permit History

No permits have been issued. A permit for the carport is pending the outcome of the BOA Meeting.

Zoning History

The subject property was located within the original 36 square miles of the City of San Antonio and zoned "C" Apartment District. Upon adoption of the 2001 Unified Development Code, the zoning converted from "C" Apartment District to the current "MF-33" Multi-Family District, established by Ordinance 93881, dated May 3, 2001. Ordinance 2006-12-14-1441 dated December 14, 2006 rezoned the property to "R-6" Residential Single-Family District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-6 AHOD" Residential Single Family Airport Hazard Overlay District	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-6 AHOD" Residential Single Family Airport Hazard Overlay District	Single-Family Dwelling

South	"R-4 AHOD" Residential Single Family Airport Hazard Overlay District	Single-Family Dwelling
East	"R-6 AHOD" Residential Single Family Airport Hazard Overlay District	Single-Family Dwelling
West	"R-6 AHOD" Residential Single Family Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Downtown Area Regional Center Plan and is designated “Urban Low Density Residential” in the future land use component of the plan. The subject property is located within the Lone Star Neighborhood Association and were notified of the case.

Street Classification

East Baylor is classified as a local road.

Criteria for Review - Variances

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 4' variance from the minimum 5' side setback requirement to allow a carport with overhang and gutters to be 1' from the side property line. As the carport stands it does not appear 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 having to move the posts of the structure 5' away from side property line which would require a possible demolition of the carport to build. Additionally, locating the carport 5' from the side property line would not allow a width great enough for a 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. A 4' variance from the 5' minimum setback requirement will observe the spirit of the ordinance and will not adversely affect surrounding properties in the immediate area.

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 finds the request for a 4' variance for a side setback is enough space away from the adjacent property line and is not likely to negatively affect the adjacent neighboring property. With the small available driveway widths for properties in the area, many carports were observed encroaching the side setback so it would not alter the 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 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 such as the small amount of available space.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Setback Requirements per Section 35-310 in the UDC.

Staff Recommendation – Side Setback Variance

Staff recommends **Approval** in **BOA-22-10300097** based on the following findings of fact:

1. The carport is required and currently has gutters installed to mitigate any issues for water runoff; and
2. The structure is constructed of metal material, which reduces the risk for fire hazards; and
3. The amount of space in the driveway is restrictive and would not allow for a functional carport without the variance.