

Case Number:	BOA-22-10300101
Applicant:	David Reyes
Owner:	David & Rhonda L Davis
Council District:	3
Location:	378 Harcourt Avenue
Legal Description:	Lot 20, Block 33, NCB 12147
Zoning:	"R-5" Residential Single-Family District
Case Manager:	Vincent Trevino, Senior Planner

Request

A request for a 2' 6" variance from the minimum 5' side setback requirement, as described in Section 35-370(b)(1), to allow a detached carport with overhang and gutters to be 2' 6" from the side.

Executive Summary

The subject property is located on Harcourt and the request is for a rear setback variance for a carport. The detached carport will be located in the back of the property and does not appear that it will impede any of the surrounding neighbors. This carport will be accessed from the rear alley. The applicant is requesting the variance prior to applying for the building permit.

Code Enforcement History

There is no relevant Code Enforcement History on record for the subject property.

Permit History

There is no relevant Building Permits on record for the subject property.

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" Residence District converted to the current "R-5" Residential Single-Family Residence District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-5" Residential Single-Family District	Single-Family Residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-5" Residential Single-Family District	Single-Family Residence
South	"R-5" Residential Single-Family District	Single-Family Residence
East	"R-5" Residential Single-Family District	Single-Family Residence
West	"R-5" Residential Single-Family District	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Brooks Regional Center Area and is designated Low Density Residential in the future land use component of the plan. The subject property is within the Highland Hills Neighborhood Association and as such, they were notified of the case.

Street Classification

Harcourt 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 2' 6" variance from the minimum 5' side setback requirement to allow a detached carport with overhang and gutters to be 2' 6" from the side property line. As the detached carport will 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 construct the detached carport structure 5' away from side property line. 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 2' 6" 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 2' 6" 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 width for property in this area, the detached carport with overhang and gutters encroaching the side setback 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-22-10300101** based on the following findings of fact:

1. The detached carport with overhang will have gutters installed to mitigate any issues for water runoff; and
2. The amount of space in the back of the property is restrictive and would not allow for a functional carport without the variance.