

Case Number:	BOA-22-10300125
Applicant:	Mark Barton
Owner:	Mark Barton
Council District:	4
Location:	1807 Parnell Avenue
Legal Description:	Lot 20, Block 206, NCB 11034
Zoning:	“R-4 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District
Case Manager:	Vincent Trevino, Senior Planner

### **Request**

A request for a 3' variance from the minimum 5' side setback requirement, as described in Section 35-370(b)(1), to allow a carport with overhang and gutters to be 2' from the side property line.

### **Executive Summary**

The subject property is located on Parnell Avenue and contains a single-family residence. The applicant constructed a carport in the rear of the property and will be accessed from the alley. There is currently a code enforcement case for the carport located within the minimum 5' side setback requirement. Upon site visit, staff observed other accessory structures in the area.

### **Code Enforcement History**

There is a zoning investigation by code compliance for encroachment of the carport within the side setback.

### **Permit History**

A variety of building permits were pulled 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 “B” Single-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “B” Single-Family Residence District converted to “R-4” Residential Single-Family District.

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

Existing Zoning	Existing Use
“R-4 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence

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

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“R-4 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence
South	“R-4 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence
East	“R-4 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence
West	“R-4 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence

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

The subject property is located in the West/Southwest Sector Plan and is designated “General Urban Tier” in the future land use component of the plan. The subject property is not located within the boundary of a registered Neighborhood Association.

### **Street Classification**

Parnell Avenue 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 applicant has requested a variance to allow a carport with overhang and gutters to be 2' from the side property line.**

- 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 carport being moved to maintain a 5' side setback. This would result in an unnecessary hardship.**

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 3' variance from the 5' minimum side 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.*

**If granted, the structure will maintain a 2' setback from the side property line, respectively. This will not alter the essential character of the district as there are similar accessory structures in the area with similar 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.*

**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. The existing structure cannot be developed with the existing setback requirements as there is insufficient space.**

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

The alternative to the applicant's request is to conform to the setback requirements listed in Section 35-370(b)(1).

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

Staff recommends **Approval** in **BOA-22-10300125** based on the following findings of fact:

1. A side setback of 2' would provide enough spacing between structures on the subject property; and
2. The detached carport with overhang will have gutters installed to mitigate any issues for water runoff; and
3. Other structures were observed in the immediate area therefore the request does not appear to alter the essential character of the neighborhood.