

Case Number:	BOA-22-10300171
Applicant:	ONE80 Solar
Owner:	1602 N Interstate 35 Land Trust
Council District:	2
Location:	1602 North Interstate Highway 35
Legal Description:	Lot 44, Block north 1/2 (half) of 2, NCB 495; The north 21.5 feet of Lot 30, Block north 1/2 (half) of 2, NCB 495; The south 68.77 feet of Lot 30, Block north 1/2 (half) of 2, NCB 495; Lot 29 except east 25 feet of south 90 feet, Block north 1/2 (half) of 2, NCB 495
Zoning:	“C-2 AHOD” Commercial Airport Hazard Overlay District
Case Manager:	Richard Bautista-Vazquez, Planner

Request

A request for a 4'-6" variance from the 5' minimum rear property setback, as described in Sec 35-516(g), to allow a detached carport to be 6" from the rear property line.

Executive Summary

The applicant is proposing to construct a carport with solar panels attached to the roof. The neighboring property is a single family dwelling zoned “C-2” Commercial District. Per Sec. 35-516(g), the side setback for an accessory structure is 5’ and since it is not in a residential district, the side setback cannot be reduced to 3’ with no overhang past it.

Code Enforcement History

There is no Code Enforcement History on file.

Permit History

A variety of building permits have been issued for the subject property. Building permits are pending the outcome of the BOA Meeting.

Zoning History

The subject property was located within the Original City Limits of San Antonio and was zoned “C” Apartment District. Ordinance 48619 dated October 20, 1977 rezoned the property to “I-1” Light Industrial District. Upon adoption of the 2001 Unified Development Code, the zoning converted to “I-1” General Industrial District, established by Ordinance 93881, dated May 3, 2001. Ordinance 2010-11-04-0971 dated November 4, 2010 rezoned the property to “C-2” Commercial District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“C-2 AHOD” Commercial Airport Hazard Overlay District	Vacant Building/Lot

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	ROW	Interstate 35
South	“R-5 AHOD” Residential Single Family Airport Hazard Overlay District	Single-Family Dwelling
East	“C-2 AHOD” Commercial Airport Hazard Overlay District	Single-Family Dwelling
West	“C-2 AHOD” Commercial Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Government Hill Neighborhood Plan and is designated “Public Institutional” and “Mixed Use” in the future land use component of the plan. The subject property is located within the Government Hill Alliance Neighborhood Association, and they were notified of the case.

Street Classification

Interstate Highway 35 is classified as an Interstate.

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 requested variance will not be contrary to the public’s interest as the carport will contain sufficient space as the rear property is on a right of way.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*

Without the variance being granted the applicant having to possibly postpone development or adapt the plans to meet the 5’ side setback requirement.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

The variance for the carport setback will not adversely affect surrounding properties in the immediate area as there is minimal chance of 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 carport will have enough space away from the adjacent property line and is likely to not negatively affect the essential 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.*

It appears 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 orientation of the lot. The variance request is not merely financial.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Setbacks per 35-516(g).

Staff Recommendation – Side Setback Variance

Staff recommends **Approval** in **BOA-22-10300171** based on the following findings of fact:

1. There does not appear to be issues for water runoff; and
2. The structure will not negatively affect neighboring properties.