

Case Number:	BOA-22-10300247
Applicant:	Jose Esquivel-Vega
Owner:	Jose Esquivel-Vega
Council District:	10
Location:	10903 Lazy Oaks Drive
Legal Description:	Lot 9, Block 12, NCB 14171
Zoning:	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager:	Richard Bautista-Vazquez, Planner

Request

A request for 1) a 2' variance from the minimum 5' side setback requirement, as described in Sec 35-370(b)(1), to allow a carport to be 3' with 6" of overhang from the side property line and 2) a 2'-2" variance from the minimum 10' front setback requirement, as described in Sec 35-516(g), to allow a carport to be 7'-10" from the front property line side.

Executive Summary

The subject property is located on Lazy Oaks Drive. Code Enforcement issued a Building Without a Permit the carport. Upon staff site visit, staff observed other similar carports in the area with similar encroaching setbacks, however no approved variances were found. The approval of the variance will allow code compliance to close out the zoning case associated with this property. The variance will also allow for any pending buildings permit to be issued.

Code Enforcement History

Building Without a Permit Created On 10/28/2022

Permit History

A residential building permit is pending the outcome of the Board of Adjustment Meeting.

Zoning History

The subject property was annexed into the City of San Antonio by Ordinance 32611, dated September 23, 1964 and zoned Temp "R-1" Single-Family Residence District. Ordinance 66918 dated April 7, 1988 rezoned the property to "R-1" Single-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001 converted to the current "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 Residence
South	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence

East	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
West	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the NE I-35 and Loop 410 Area Regional Center Plan and is designated “Low Density Residential” in the future land use component of the plan. The subject property is located within the Oak Grave Estates Neighborhood Association, and they were notified of the case.

Street Classification

Lazy Oaks Drive is classified as a local road.

Criteria for Review – Side and Front 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 structure appears to provide adequate space along the side property line. There is minimal chance of water runoff to the adjacent property therefore the carport is not contrary to the public’s interest.

The structure appears to have enough room to conform to the required front setback therefore the front setback request is contrary to the public’s interest.

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

Staff finds an unnecessary hardship due to the limited length of the side yard and to have the ability to fit two vehicles under the carport.

No special conditions were found that would prevent observing the front setback.

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

The requested variance is to allow a structure to be closer to the side property line. Due to the configuration of the property this will observe the spirit of the ordinance as it will leave sufficient room between adjacent lot.

The requested variance is to allow a structure to be closer to the front property line. The spirit of the ordinance will not be observed as there is enough room to conform to the required setback.

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 does not find evidence that the requested variance for a side setback would not alter the essential character of the district. The variance would leave enough distance from adjacent lot and room for maintenance.

Staff finds evidence that the requested variance for a front setback would alter the essential character of the district. The character of the neighborhood would change as the front setback will not have the proper distance from the front property line.

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 sought is due to the unique circumstances existing on the property such as the size and location of the lot. The variance request is not merely financial.

The front setback variance sought is due to the unique circumstances existing on the property such as the size and location of the lot. The plight of the owner does not show circumstances existing on the property that would prevent the required 10' front setback.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the side setback regulations for Accessory Structures of UDC Sec 35-370(b)(1) and Setbacks of the UDC Sec 35-516(g).

Staff Recommendation – Side Setback Variance

Staff recommends **Approval** in **BOA-22-10300247** based on the following findings of fact:

1. The request will leave enough room between abutting adjacent property; and
2. The variance will not alter the essential character of the neighborhood.

Staff Recommendation –Front Setback Variance

Staff recommends **Denial** in **BOA-22-10300247** based on the following findings of fact:

1. The essential character of the neighborhood will be altered with the reduced front setback; and
2. The lot does not contain unique circumstances that prevent the required front setback.