

Case Number:	BOA-23-10300023
Applicant:	Cintia Silva
Owner:	Oscar S Silva & Cintia Cruz
Council District:	4
Location:	4919 Annies Farm
Legal Description:	Lot 17, Block 7, NCB 14569
Zoning:	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District
Case Manager:	Joseph Leos, Planner

Request

A request for a 4'-7" variance from the minimum 5' side setback requirement, as described in 35-370 (b)(1), to allow a carport to be 5" from the side property line.

Executive Summary

The subject property is located along Annies Farm near Watson Road on the far southwest side of San Antonio. The applicant is anticipating constructing a carport that will encroach into the side setback. Originally, the applicant pulled building permits (RES-CRT-PMT22-32200716) to allow a carport to be 3' from the side property line with no projecting architectural features or overhang but decreased the setback distance to 5" to allow for more spacious parking of their vehicle. A carport is considered accessory structure, which are required to be setback 5' from the side property line.

Code Enforcement History

There is not relevant code enforcement history for the subject property.

Permit History

The issuance of an updated carport permit is pending the outcome of the Board of Adjustment. Carport Permit (RES-CRT-PMT22-32200716)- January 2023

Zoning History

The subject property was annexed and zoned into the City of San Antonio by Ordinances 2018-12-13-1044 and Ordinance 2018-12-13-1045, dated December 13, 2018, to the current “R-5” Residential Single-Family District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
South	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence

East	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
West	“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Heritage South Sector Plan and is designated “Suburban Tier” in the future land use component of the plan. The subject property is not located within a boundary of a neighborhood association.

Street Classification

Annies Farm is classified as a local road.

Criteria for Review – Rear 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. In this case, the public interest is represented by restricted setbacks to provide ample spacing between property line and structures. The applicant is requesting a variance to the side setback to allow a carport to be 5” from the side property line. Staff finds this distance is not suitable, as it imposes on the public interest of the neighbor.

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

There are no special conditions on the subject property that warrant the carport from meeting the minimum 5’ side setback requirements. The applicant is primarily constructing the carport to allow for more spacious parking for their vehicle, which does not result in an unnecessary hardship, as staff observed there is currently sufficient space to park their 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. In this case, the intention is for sufficient spacing between structure and property line. The carport will be 5” from the side property line, which does not observe the spirit of the ordinance as it will be too close to the shared property line and neighboring structure.

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 be 5” from the side property line, which is likely to alter the essential character of the district. Upon site visits, staff observed no carports in the immediate area. Additionally, no other structures seemed to impose into the setback area. For these reasons, the granting of the variance will alter the essential character of the district, as setback restrictions are enforced for uniformity within a community.

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 found no unique circumstances on the subject property to warrant the need for a reduced side setback, as there is already sufficient space to construct the carport while providing adequate spacing for their vehicle.

Alternative to Applicant’s Request

The alternative to the applicant’s request is to conform to the setback requirements of the UDC Section 370 (b)(1).

Staff Recommendation – Side Setback Variance

Staff recommends Denial in BOA-23-10300023 based on the following findings of fact:

1. The structure is anticipated to be 5” from the side property line; and
2. No unnecessary hardships seemed to be present, as there is already sufficient room to park their vehicle comfortably; and
3. No other carports and reduced setbacks were seen in the immediate area.