

Case Number:	BOA-23-10300040
Applicant:	Filimon Hernandez
Owner:	Filimon Hernandez
Council District:	6
Location:	8930 Fabens
Legal Description:	Lot 29, Block 10, NCB 17643
Zoning:	“R-6 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Case Manager:	Jake Exler, Planner

Request

A request for a 9’-11” variance from the 10’ front setback requirement, as described in Sec. 316(g), to allow a carport to be 1” from the front property line.

Executive Summary

The subject property is located along Fabens in the far west side of San Antonio. The applicant has begun construction on a carport that he hopes to build 1” from the property line, short of the 10’ minimum front setback requirement. No other variances have been approved in the area for a carport front setback. Driveway depth is approximately 22 feet from the home to the property line.

Code Enforcement History

The case has no Code Enforcement history.

Permit History

The applicant was previously granted a permit for a carport 10’ from the property line.

Zoning History

The property was annexed into the City of San Antonio by Ordinance 81107, dated December 31, 1994 and zoned Temporary “R-1” Single-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “R-1” Single-Family Residence District converted to the current “R-6” Residential Single-Family District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-6 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting	Single-Family Residence

	Overlay Military Lighting Region 2 Airport Hazard Overlay District	
South	“R-6 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
East	“R-6 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
West	“R-6 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the “West/Southwest Sector Plan” and has a land use designation of “Suburban Tier”. The subject property is not part of a neighborhood association.

Street Classification

Fabens is classified as a local street.

Criteria for Review – 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 public interest is defined as the general health, safety, and welfare of the public. The proposed carport would only be 1” from the property line and so is 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 not result in unnecessary hardship as the applicant would need to redesign the carport to comply with the ordinance.

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. Reducing the front setback requirement would injure neighboring properties as there are no active variances for similar carports in the 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.*

The reduced front setback would injure neighboring properties as the directly neighboring houses are compliant with the front setback requirement. Neighboring properties that have carports have no variances on file.

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 variances are sought are not due to unique circumstances existing on the property.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Setback Regulations under Section 35-516(g) of the UDC.

Staff Recommendation – Front Setback Variance

Staff recommends Denial in BOA-23-10300040 based on the following findings of fact:

1. The reduced front setback injures neighboring properties; and
2. No similar variances have been approved in the area.