

Case Number:	BOA-23-10300061
Applicant:	Eliseo Garcia
Owner:	Eliseo & Grace Garcia
Council District:	4
Location:	5903 Knoll Krest Drive
Legal Description:	Lot 18, Block 18, NCB 15306
Zoning:	“R-6 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District
Case Manager:	Joseph Leos, Planner

### **Request**

A request for a 4'-9" variance from the minimum 5' side setback, as described in Section 35-370(b)(1), to allow a carport to have a 3" side setback.

### **Executive Summary**

The subject property is located along Knoll Krest Drive, near Lackland Airforce Base. The applicant is requesting a variance for the side setback, to allow a detached carport with a width of 17'-9" to be 3" from the side property line. Upon site visits, staff observed the applicant had halted construction on the carport to obtain a building permit. Carports constructed in San Antonio are required to maintain a minimum distance of 5'.

### **Code Enforcement History**

There is no relevant code enforcement history for the subject property.

### **Permit History**

The issuance of building permit is pending the outcome of the Board of Adjustment.

MEP-SOL-PMT22-34902652(Solar- Photovoltaic Permit)- March 2022

MEP-ELE-PMT21-33314723 (Electrical General Permit)- January 2022

### **Zoning History**

The subject property was annexed into the City of San Antonio by Ordinance 41419, dated December 25, 1972, and originally 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 Temporary “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-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence

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

Orientation	Existing Zoning District(s)	Existing Use
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North	“R-6 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-6 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-6 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-6 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 in the Port San Antonio Area Regional Center Comprehensive Plan and is designated “Low Density Residential” in the future land use component of the plan. The subject property is not located within a boundary of a registered neighborhood association.

### **Street Classification**

Knoll Krest 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. 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 3” from the side property line. Staff finds this distance is not suitable, as it imposes on the public interest of the neighbor by being too close to the shared property line and water runoff may impose.

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 need for the carport to have a 3” side setback. The carport is current 17’-9” in width, which if reduced, can still be a sizeable carport that could fit vehicles.

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 3” 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 carport will be 3” 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 with a reduced setback and overall size. 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 and to allow for mitigation of storm water.

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 35-370(b)(1).

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

Staff recommends Denial in BOA-23-10300061 based on the following findings of fact:

1. No unnecessary hardships seemed to be present, as there is already sufficient room to park their vehicle comfortably; and
2. No other carports and reduced setbacks were seen in the immediate area.