

Case Number:	BOA-21-10300150
Applicant:	Jonathan Rackler
Owner:	Jesse Herrera
Council District:	3
Location:	4923 Greenwood Street
Legal Description:	East 130' of Lot 13, Block 31, NCB 7753
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:	Roland Arsate, Planner

### **Request**

A request for a 4' 4" variance from the 5' minimum side setback requirement, as described in Section 35-310, to allow a new carport to be 8" from the side property line.

### **Executive Summary**

The subject property is located on the corner of Greenwood Drive and East Young Avenue. The subject property is currently vacant, and the applicant is proposing to construct a new single family residence. The applicant is proposing to construct an attached carport which will be 8" from the side property line. There was a previous single-family residence with a carport constructed on the property that was demolished in October of 2021. The applicant is proposing to construct a similar structure as what was previously there.

### **Code Enforcement History**

November – 2021 Building without a permit.

### **Permit History**

October 2021- Demolition Permit

October 2021- Foundation Permit

November 2021-Building Permit

### **Zoning History**

The subject property was annexed by the City of San Antonio by Ordinance 1391 on September 22, 1944 and zoned "J" Commercial District. The property was rezoned by Ordinance 83932, dated April 11, 1996, and zoned "R-1" Single-Family Residence District. Upon adoption of the 2001 Unified Development Code, the zoning converted from "R-1" to the current "R-6" Residential Single-Family District, established by Ordinance 93881 dated May 3, 2001.

### **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
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North	"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
South	"C-3NA MLOD-2 MLR-2 AHOD" General Commercial Nonalcoholic Sales 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	"C-2NA MLOD-2 MLR-2 AHOD" Commercial Nonalcoholic Sales 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 South Central Community Plan and is designated “Low Density Residential” in the future land use component of the plan. The subject property is not located within the boundary of a Neighborhood Association.

### **Street Classification**

Greenwood Street is classified as a local road.

### **Criteria for Review – Side Setback 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 public interest is defined as the general health, safety, and welfare of the public. The applicant is requesting a variance to the side setback in order to allow an attached carport on the property.

**Staff finds a 3’ side setback is not 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 result in the applicant building the carport five feet from the side property line, which results in unnecessary hardship.

**The small width of the lot presents challenges in new construction, so staff finds a 2’ variance to allow the carport to be 3’ away from the side property line will not result in unnecessary hardship.**

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. The carport will maintain 8” from the side property line, which does not observe the spirit of the ordinance.

**The spirit of the ordinance will be observed with a 3’ side setback since it will allow adequate space from the adjacent 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 maintain 8” from the side property line, which is likely to alter the essential character of the district.

**A 3’ side setback for the proposed carport does not appear to alter the essential character of the district nor will it injure adjacent properties.**

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 variance is sought is due to unique circumstances existing on the property. The lot is small and the variance will accommodate a larger area for a vehicle. The circumstances were not created by the owner and are not merely financial.**

### **Alternative to Applicant’s Request**

The alternative to the applicant’s request is to conform to the Lot and Building Dimensions of the UDC Section 35-310.

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

Staff recommends Denial **with an Alternate Recommendation of a 2’ variance to allow a carport to be 3’ from the side property line** in **BOA-21-10300150** based on the following findings of fact:

1. The property is currently vacant and it is new construction being proposed; and
2. The small width of the lot presents challenges in new development; and
3. A side setback of 3’ will observe the spirit of the ordinance as it will provide for more separation from the adjacent residential structure.