

Case Number:	BOA-21-10300138
Applicant:	Leticia Velasquez
Owner:	Leticia Velasquez
Council District:	5
Location:	607 Brady Boulevard
Legal Description:	Lot 30, Block 8, NCB 12688
Zoning:	"R-4 MLOD-2 MLR-2 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Case Manager:	Kayla Leal, Principal Planner

### **Request**

A request for 3'6" variance from the 5' minimum side setback, as described in Section 35-310, to allow a carport with 4" of overhang to be 1' 6" away from the side property line.

### **Executive Summary**

The subject property is located near the corner of Brady Boulevard and Keck Avenue. The applicant has constructed a carport that is not setback 5' from the side property line. The carport is currently 1' 6" away from the side property line and has about 4" of overhang. Permits were not pulled for the carport, but there do appear to be other non-conforming carports in the surrounding area.

### **Code Enforcement History**

An investigation was opened on June 4, 2021 for Building Without A Permit.

### **Permit History**

There are no relevant permits pulled for the subject property.

### **Zoning History**

The subject property was part of the Original City Limits of San Antonio and originally zoned "L" Manufacturing District. The property was rezoned under Ordinance 22682, dated April 26, 1956 from "L" Manufacturing District to "B" Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned "B" Residence District converted to "R-4" Residential Single-Family District.

### **Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
"R-4 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-4 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-4 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-4 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-4 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 Guadalupe Westside Community Plan and is designated “Low Density Residential” in the future land use component of the plan. The subject property is located within the boundary of the El Charro Neighborhood Association and they have been notified of the request.

### **Street Classification**

Brady Boulevard 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. The applicant is requesting a variance to the side setback in order to allow carport to be 1’ 6” from the side property line. There is currently about 4” of overhang as well which is contrary to the public interest.

**Staff finds a 2’ variance from the side setback requirement 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 relocating the carport five feet from the side property line, which results in unnecessary hardship as it will reduce the amount of driveway to park two vehicles.

**Staff finds an unnecessary hardship can be avoided by relocating the structure 3’ from the side property line and providing gutters.**

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 accessory structure is currently 1' 6" 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 and will provide adequate space for water runoff.**

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 1' 6" from the side property line, which is likely to alter the essential character of the district.

**A 3' side setback for the accessory structure 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 circumstances do not appear to be merely financial in nature.**

#### **Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the Lot and Dimension Regulations of the UDC Section 35-310.

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

Staff recommends Denial **with an Alternate Recommendation of a 2' variance to allow carport to be 3' from the side property line** in **BOA-21-10300138** based on the following findings of fact:

1. The structure is currently 1' 6" from the side property line; and
2. Adequate space for drainage and separation will be provided by relocating the carport to be 3' from the side property line.