

Case Number:	BOA-21-10300151
Applicant:	Irma Ybanez
Owner:	Irma Ybanez
Council District:	7
Location:	207 Havana Drive
Legal Description:	West 22 feet of Lot 16 & East 34 feet of Lot 17, Block 11, NCB 10135
Zoning:	"R-5 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' 11" variance from the minimum 5' side setback requirement, as described in Section 35-310, to allow a carport to be 1" from the side property line.

Executive Summary

The subject property is located along Havana Street near Hillcrest Drive. There is currently a single-family residence constructed on the property with a carport. The applicant is requesting to keep an extension of a carport that was recently constructed in order to better accommodate the storage of vehicles. The extended portion of the carport was built encroaching into the side setback requirement. The new carport addition sits 1" from the side property line.

Code Enforcement History

Zoning Investigation for carport build without permit in August 2021.

Permit History

There are no relevant permits pulled for the subject property. The permit for the carport is pending the outcome of the BOA Hearing.

Zoning History

The subject property was annexed by the City of San Antonio by Ordinance 13076, dated October 11, 1950 and zoned "A" Single-Family Residence District. Upon adoption of the 2001 Unified Development Code, the zoning converted from "A" Single-Family Residence District to the current "R-5" Residential Single-Family District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R5 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	"R5 MLOD-2 MLR-2 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region-2 Airport Hazard Overlay District.	Single-Family Residence
South	"R5 MLOD-2 MLR-2 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region-2 Airport Hazard Overlay District.	Single-Family Residence
East	"R5 MLOD-2 MLR-2 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region-2 Airport Hazard Overlay District.	Single-Family Residence
West	"R5 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 Sector Plan and is designated "General Urban Tier" in the future land use component of the plan. The subject property is located within the Woodlawn Hills Neighborhood Association and they were notified of the case.

Street Classification

Havana Street 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 a carport to be 1" from side property line.

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 having to move the post of the carport 5' away from side property line in order to comply with UDC 35-310.01. There is an existing carport on the property with posts in compliance, so a literal enforcement of the ordinance does not appear to result in an 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 is 1" from side property line which was constructed without a permit or inspections, which does not observe the spirit of the ordinance.

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” from the side property line, which is likely to alter the essential character of the district. With no gutters placed on the carport, water runoff may affect the adjacent conforming property.

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 the extension of the existing carport which is attached to the existing residential structure. The existing carport is small in size and the variances will accommodate a larger area for the multiple vehicles that belong to the homeowner. The circumstances were 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 35-310.01.

Staff Recommendation – Side Setback Variance

Staff recommends Denial in BOA-21-10300151 based on the following findings of fact:

1. The carport was constructed 1” from the side property line without a permit; and
2. There is adequate space for vehicular parking with the existing carport.