

Case Number:	BOA-21-10300194
Applicant:	Carlos Ornelas
Owner:	Carlos and Michele Ornelas
Council District:	3
Location:	158 Hartford Avenue
Legal Description:	Lots 1 & the West 12.63 Feet of 2, Block 22, NCB 2010
Zoning:	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District
Case Manager:	Richard Bautista-Vazquez, Planner

**Request**

A request for 1) a 5’ 5” variance from the minimum 10’ front setback requirement, as described in Section 35-310, to allow a carport to be 4’ 7” from the front property line and 2) a 4’ 1” variance from the minimum 5’ side setback requirement, as described in Section 35-310, to allow a carport with 5” overhang to be 11” from the side property line.

**Executive Summary**

The subject property is located on Hartford Avenue. The applicant has constructed a carport that encroaches into the side and front setback. As it stands the carport does not appear to impede any of the surrounding properties. The applicant is requesting a 5’ 5” variance from the 10’ front setback requirement to allow a carport to be 4’ 7” from the front property line and 2) a 4’ 1” variance from the minimum 5’ side setback requirement to allow a carport with 5” overhang to be 11” from the side property line.

**Code Enforcement History**

A Permit Investigation was opened on November 18, 2021, for Building Without A Permit and Property Setback, both are pending a resolution.

**Permit History**

No permits have been issued. A permit is pending the outcome of the BOA Meeting.

**Zoning History**

The subject property was annexed into the City Limits of San Antonio by Ordinance 18115 dated September 24, 1952 and was zoned “B” Residence District. Upon adoption of the 2001 Unified Development Code, the zoning converted from “B” Residence District to the current “R-4” Residential Single-Family District, established by Ordinance 93881, dated May 3, 2001.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
-------------	-----------------------------	--------------

North	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
South	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
East	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
West	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Brooks Area Regional Center and is designated “Low Density Residential” in the future land use component of the plan. The subject property is located within the Highland Hills Association and were notified of the case.

**Street Classification**

Hartford Avenue is classified as a local road.

**Criteria for Review - 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 5’ 5” variance from the 10’ front setback requirement to allow a carport to be 4’ 7” from the front property line and a 4’ 1” variance from the minimum 5’ side setback requirement to allow a carport with 5” overhang to be 11” from the side property line. The width of the carport is 9’ 6” which is enough space to park one vehicle.**

The encroachment into the front setback does not seem necessary and seems 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 having to move the post of the structure to 5’ away from side property lines and 10’ from the front property line which would require a possible demolition of the carport to build.**

There appears to be enough space for the front setback requirement to be met as there is not 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 side setback is intended to provide space between structures, but the carport is constructed of metal, which is a fire-rated material. This spirit of the ordinance**

**appears to be observed for the side setback variance as the structure is only able to fit the width of one vehicle.**

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.*

**Many other carports were observed in the surrounding area, so the requested variances do not appear to be injuring adjacent conforming properties or altering the essential character of the district.**

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 such as the small amount of available space.**

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

The alternative to the applicant's request is to conform to the Setback Regulations per UDC Section 35-310.

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

Staff recommends **Approval** in **BOA-21-10300194** based on the following findings of fact:

1. The width of the carport is 9' 6" which is only wide enough to fit one vehicle; and
2. The carport is constructed of metal which is a fire-rated material; and
3. The structure does not appear to have adverse effects on adjacent properties and is not altering the essential character of the district.

#### **Staff Recommendation – Front Setback Variance**

Staff recommends **Denial** in **BOA-21-10300194** based on the following findings of fact:

4. The length of the driveway is sufficient enough to be able to construct the carport and meet the front setback requirement.