



# City of San Antonio

## Legislation Details (With Text)

**File #:** 21-2576

**Type:** Staff Briefing - Without Ordinance

**In control:** Board of Adjustment

**On agenda:** 4/5/2021

**Title:** BOA-21-10300012: A request by Iram Ramirez for a 4' 8" variance from the minimum 5' side setback requirement to allow a carport with 2" gutters to be 4" away from the side property line, located at 746 Brunswick Boulevard. Staff recommends Denial with an Alternate Recommendation. (Council District 3) (Kayla Leal, Senior Planner (210) 207-0197, kayla.leal@sanantonio.gov, Development Services Department)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Attachments

Date	Ver.	Action By	Action	Result
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Case Number:	BOA-21-10300012
Applicant:	Iram Ramirez
Owner:	Iram Ramirez
Council District:	3
Location:	746 Brunswick Boulevard
Legal Description:	Lot 45, Block 9, NCB 7872
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:	Kayla Leal, Senior Planner

### Request

A request for a 4' 8" variance from the minimum 5' side setback requirement, as described in Section 35-310.01, to allow a carport with 2" gutters to be 4" away from the side property line.

### Executive Summary

The subject property is located mid-block along Brunswick Boulevard. The applicant received a code violation for building without a permit in January of 2021, which caused the submittal for a variance. Although it is unclear where the property line is, upon staff's field visit, the carport appears to be built as close as 4" from the property line and has a 2" gutter. The carport has a width of 16 feet and a length of 34 feet. The subject property

is located within a neighborhood with older development, so there are other carports in the surrounding area with similar setback encroachments.

**Code Enforcement History**

There is an open code enforcement violation case for building without a permit.

**Permit History**

There are no relevant permits pulled for the property.

**Zoning History**

The subject property was annexed into the City of San Antonio on September 23, 1944 by Ordinance 1391 and was zoned “B” Residence District. Rezoned to “R-1” Residence District on July 11, 1996 by Ordinance 84398. The zoning converted from “R-1” to the current “R-6” Residential Single Family District upon adoption of the 2001 Unified Development Code (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 dwelling

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
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 dwelling
South	“R-6 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Vacant Lot
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 dwelling

West	“R-6 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-family dwelling
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**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the South San Antonio Central Community Plan and is designated “Low Density Residential” in the future land use component of the plan. There are no registered Neighborhood Associations within 200’ of the subject property.

**Street Classification**

Brunswick Boulevard is classified as a Local Road.

**Criteria for Review**

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 variance being requested is for a carport encroachment into the side setback. The carport is currently 16’ wide, and could be reduced to protect the public interest while allowing for adequate space to park a vehicle.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*

Staff finds that any special conditions that, if enforced, would result in an unnecessary hardship. By imposing a literal enforcement, the carport width would need to be adjusted to 11’ which would minimize space for a vehicle.

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 intent of the setbacks is to provide spacing between neighboring structures. By reducing the setback to 3’ 4”, the applicant will maintain about 8’ between structures with a 3’ 4” variance to the side setback.

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.*

The request to reduce a portion of the side setback does not pose a risk of substantially injuring the use of adjacent properties and does not seem likely to alter the essential character of the district. This property is located within an older neighborhood, and there are many non-conforming carports built encroaching into the side setbacks.

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 that the applicant is requesting the variance to continue constructing a carport on the property. The unique circumstances existing on the property were created by the owner of the property as they would have been informed of the setback requirements while pulling a permit.

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

The alternative to the applicant's request is to conform to the Lot & Setback Dimensions of the UDC Sections 35-310.01.

### **Staff Recommendation**

Staff recommends Denial with an Alternate Recommendation of a 2' variance from the minimum 5' side setback requirement to allow a carport with 2" gutters to be 3' away from the side property line in BOA-21-10300012 based on the following findings of fact:

1. The carport will have an adjusted width of 13' 4"; and
2. The carport will be 3' away from the side property line.