



# City of San Antonio

## Legislation Details (With Text)

**File #:** 21-3616  
**Type:** Staff Briefing - Without Ordinance  
**In control:** Board of Adjustment

**On agenda:** 5/17/2021

**Title:** BOA-21-10300041: A request by Juan Garcia for a request for a 1) 4'11" variance to the minimum 5' side setback to allow a carport with a 1'5" overhang to be 1" from the side property line and 2) an 8'6" variance to the minimum 10' front setback to allow a carport with a 2' overhang to be 1'6" from the front property line, located at 339 McCauley Avenue. Staff recommends Denial with an Alternate Recommendation. (Council District 3) (Mirko Maravi, Senior Planner, 210-207-0107, Mirko.Maravi@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-21-10300041  
**Applicant:** Juan Garcia  
**Owner:** Juan Garcia  
**Council District:** 3  
**Location:** 339 McCauley Avenue  
**Legal Description:** Lot 327, NCB 8729  
**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:** Mirko Maravi, Senior Planner

### Request

A request for a 4'11" variance to the minimum 5' side setback, as required in Table 310-1, to allow a carport with a 1'5" overhang to be 1" from the side property line and 2) an 8'6" variance to the minimum 10' front setback, as required in Table 310-1, to allow a carport with a 2' overhang to be 1'6" from the front property line.

### Executive Summary

The subject property is located at 339 McCauley Avenue, near the intersection of Pleasanton Road and SW Military Drive. The neighborhood is predominantly surrounded by single-family properties. The abutting

property to the west is City Right of Way although it appears to be a vacant lot.

The applicant built a carport in front of the existing home which intrudes 4'11" into the side setback with posts being 1'6" from side yard with approximate 1'5" overhang. Existing 5" to 6" gutters extend into right of way and will need to be cut back. The carport is also 8'6" into the front setback with posts being 3'6" from front setback with 1'6" overhang with gutters. While there are a few carports in the neighborhood, the majority are situated on the side of the residence.

### **Code Enforcement History**

A Code Enforcement Case is currently open in relation to the carport for a setback violation and building without a permit. Case was opened on November 6, 2020.

### **Permit History**

No permits related to this case were found.

### **Clear Vision Review**

The Clear Vision standard review is not required.

### **Zoning History**

The subject property was annexed to the City of San Antonio by Ordinance 1391, dated September 23, 1944, and was originally zoned as "B" Residence District. The property was rezoned by Ordinance 84398, dated July 11, 1996 to the "R-1" Single-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property converted from "R-1" Single-Family Residence District to the current "R-6" Residential Single-Family District.

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

<b>Existing Zoning</b>	<b>Existing Use</b>
"R-6 MLOD-2 MLR-2 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Residential

### **Surrounding Zoning/Land Use**

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	"R-6 MLOD-2 MLR-2 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Residential

South	“R-6 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Residential
East	“R-6 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Residential
West	Right of Way	Vacant

### **Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the South Central San Antonio Community Plan and is designated “Low Density Residential” in the future land use component of the plan. The subject property is not located within or within 200 feet of any Neighborhood Association.

### **Street Classification**

McCauley Avenue is classified as a local street.

### **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 requested for the side setback encroachment of the carport is contrary to the public interest as the structure appears to be too close to the property line which creates maintenance challenges.

The current carport depth is 33’6”. If the carport abides the front setback standard, it would still have a parking area depth of 25’.

**The alternate recommendation of a 2’ variance would allow the carport to be 3’ away from the side property line leaving enough space for long term maintenance without trespassing. Reducing the side setback will leave the carport with 19’4” allowing space for 2 vehicles side by side.**

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

Staff does not find any special conditions that, if enforced, would result in an unnecessary hardship. The current width of the interior carport is 20’10” and can be reduced still allowing vehicles side by side.

**The alternate recommendation of a 2' variance will provide 19'4" of carport width and will not create unnecessary hardship for the property owner. Maintaining the required 10' front setback still leaves 25 feet of carport depth.**

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

**The alternate recommendation of a 2' side yard variance for the carport would still be adequate space between the subject property and right of way for maintenance. Maintaining the required 10' front setback still leaves 25 feet of carport depth.**

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 permitted 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 of a variance to allow a carport 1'6" from front setback and 1" from side setback will alter the character of the district. No other carports found in the neighborhood as close to front setback.

The applicant could remove the overhang on the carport and maintain a 3'6" side setback without detracting from the character of surrounding community. The applicant can reduce the parking area depth to 25' of the carport to abide by the front setback standard.

**The alternate recommendation of maintaining the required 10' front setback can accommodate property owner's vehicles, while maintaining the character of the surrounding neighborhood.**

**Staff finds that having a lesser side setback for the subject carport does not pose immediate risk to adjacent properties and leaves enough room for maintenance of the structure.**

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.*

The staff was not able to determine any unique circumstances to support the requested side and front setback for the carport.

**The current request is for a 4'11" variance, but staff recommends a 2' variance to allow the carport to be 3' from the side property line.**

**The alternate recommendation would respect the intent of the code.**

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

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

310.01.

**Staff Recommendation**

Staff recommends Denial of a 4'11" variance to the minimum side setback requirement of 5' to allow a carport to be 1" away from the side property line **with an Alternate Recommendation for a 2' variance to allow a carport to be 3' away from the side property line in BOA-21-10300041 based on the following findings of fact:**

1. The interior width of the carport can maintain two vehicles parked side by side, and;
2. A 3' side setback would provide enough space for maintenance of structure.

**Staff Recommendation**

Staff recommends Denial of an 8'6" variance to allow a detached carport to be 1'6" away from the front property line in BOA-21-10300041 based on the following findings of fact:

3. The applicant can reduce the carport to maintain a 10-foot front setback, and;
4. The reduction of the carport to meet the front setback standards will still allow a parking area depth of 25-feet.