



# City of San Antonio

## Legislation Details (With Text)

**File #:** 21-4115

**Type:** Staff Briefing - Without Ordinance

**In control:** Board of Adjustment

**On agenda:** 6/7/2021

**Title:** BOA-21-10300052: A request by Miguel Garcia for a 4' side setback variance to allow a carport to be 1' from the side property line with an 8" overhang, located at 351 Kendalia Avenue. Staff recommends Denial with an Alternate Recommendation. (Michael Pepe, Senior Planner, (210) 207-8208, Michael.Pepe@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-21-10300052
Applicant:	Miguel Garcia
Owner:	Miguel Garcia
Council District:	3
Location:	351 Kendalia Avenue
Legal Description:	Lot E 50 feet of 13, Block 6, NCB 7836
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:	Michael Pepe, Senior Planner

### Request

A request for a 4' side setback variance, as required in Table 310-1, to allow a carport to be 1' from the side property line with an 8" overhang.

### Executive Summary

The subject property is located midblock along Kendalia Avenue. The applicant is requesting a side setback variance for a carport to be constructed in the side yard of the home. The owner received a stop work order after posts were put in place, but the carport is not yet constructed. The neighboring property at 355 Kendalia was heard and approved by the Board of Adjustment on September 16, 2019 for a 4 foot side yard carport variance allowing a one foot setback.

**Code Enforcement History**

On April 28, 2021 a code investigation occurred for Building Without A Permit.

**Permit History**

There is no relevant Permit history.

**Zoning History**

The property was annexed into the City of San Antonio on September 22, 1944 by Ordinance 1391, and originally zoned "D" Apartment District. The property was rezoned by Ordinance 84398, dated July 11, 1996 to the "R-1" Single-Family Residence District. With the adoption of the 2001 Unified Development Code, the "R-1" converted to "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	Single-Family Residence

**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	Single-Family Residence
South	"R-6 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-6 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-6 MLOD-2 MLR-2 AHOD" Residential Single Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
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### **Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the South Central Community Plan and is designated “Low Density Residential” in the future land use component of the plan. The subject property is not located within the boundaries of a registered Neighborhood Association.

### **Street Classification**

Kendalia Street is classified as a Local Road.

### **Criteria for Review - 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 proposed carport would be out of character with the neighborhood in extent and location relative to property lines. A carport with overhang 4 inches from property line will leave little room for maintenance.

**Extending the structure 3 feet from property line with overhang will allow room for maintenance and storm water runoff.**

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

Literal enforcement of the ordinance would not result in unnecessary hardship. The proposed carport is not yet constructed, so the alternative would be to build the carport within the required 5’ setback, or 3’ without overhang.

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 prevent runoff onto neighboring properties as well as provide distance from neighboring structures for the purposes of fire safety and maintenance.

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 variance will the essential character of the district, which calls for structures to be separated on the sides by setbacks. Allowing construction along the property line would alter this character. Further, the proximity to the neighboring property and structure could injure adjacent use with visual and stormwater impacts.

**Maintaining 3 feet from property line with overhang will allow room for maintenance and storm water runoff. The neighboring property at 355 Kendalia was heard and approved by the Board of Adjustment on September 16, 2019 for a 4 foot side yard carport variance allowing a one foot setback.**

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 no special characteristics exist, and the side setback is a general condition of the district.

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

The alternative to the applicant's request is to conform to the 5' side setback or 3' side setback with no overhang.

#### **Staff Recommendation -**

Staff recommends Denial in BOA-21-10300052 **with an Alternate Recommendation of a 2' variance to allow a carport to be 3' away from the side property line with an 8" overhang** in based on the following findings of fact:

1. The proposed carport would be out of character with the neighborhood in extent and location relative to property lines,
2. The carport may still be constructed either 5' from the side property line or 3' with no overhang; and
3. The proximity to the neighboring property and structure could injure adjacent use with visual and stormwater impacts.