



# City of San Antonio

## Legislation Details (With Text)

**File #:** 21-5152

**Type:** Staff Briefing - Without Ordinance

**In control:** Board of Adjustment

**On agenda:** 8/16/2021

**Title:** (Continued from 08/02/2021) BOA-21-10300073: A request by Javier Martinez for 4' 11" variance from the minimum 5' side setback to allow an attached carport to be 1" from the side property line, located at 1018 Vanderbilt Street. Staff recommends Denial with an Alternate Recommendation. (Council District 3) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@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-21-10300073
Applicant:	Javier Martinez
Owner:	Javier Martinez
Council District:	3
Location:	1018 Vanderbilt Street
Legal Description:	Lot E 13 FT OF 3 & W 45 FT OF 4, Block 2, NCB 6868
Zoning:	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager:	Roland Arsate, Planner

### Request

A request for a 4' 11" variance from the minimum 5' side setback, as described in Section 35-310.01, to allow an attached carport to be 1" from the side property line.

### Executive Summary

The subject property is located on Vanderbilt Street. There is an attached carport to the side of an existing Single-family structure. The applicant is requesting a variance to the side setback for a carport to be built 1" from the property line.

Upon the site visit conducted by BOA staff, other observations including code enforcement violations for no

permit pulled for reroof of home and for construction of the carport. The carport not being fire rated, it currently sits on the property line, in addition a change of pitch and slope to the roof. Per consultation with plan review team, the customer would be required to obtain an engineer's letter due to change of existing primary structure.

### **Code Enforcement History**

Permit Investigation for building without a permit for re-roof on March 08, 2021.

Permit Investigation for building without a permit for a carport on May 19, 2021.

### **Permit History**

Re-roof permit pulled on March 09, 2021, on application indicated there was no change to pitch or slope.

### **Zoning History**

The subject property is located within the Original City Limits of San Antonio and was zoned "B" Residential District. The zoning converted from "B" to the current "R-4" Residential Single-Family District upon adoption of the 2001 Unified Development Code (Ordinance 93881, dated May 3, 2001).

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

<b>Existing Zoning</b>	<b>Existing Use</b>
"R-4 AHOD" Residential Single-Family 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-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
South	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
East	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
West	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence

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

The subject property is designated "Low Density Residential" in the future land use component of the Highland Community Plan. The subject property is located within the Highland Park Neighborhood Association and they were notified of the case.

### **Street Classification**

Vanderbilt 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 variance to the side setback for an attached carport, which is not contrary to the public interest. However, the 1" side setback for the carport facing Vanderbilt Street is contrary to the public interest.

**Staff recommendation is a 2' side setback variance to the 5' requirement.**

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

The structure facing Vanderbilt was constructed, so a literal enforcement of the ordinance would result in the applicant needing to relocate the carport 5' from side property line.

**Staff recommends a relocation of the carport no closer than 3' from side property line with fire rating (no openings and no overhang) on the side of the carport abutting the neighbor property.**

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. With the carport maintaining 1" from the side property line the spirit of the ordinance will not be observed and substantial injustice will be done

**The carport maintaining 3' from the side property line as well as fire rating the structure, observes 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 with the attached carport will maintain 1", respectively, from the eastern side property lines which is likely to alter the essential character of the district.

**If the alternate recommendation is granted, the structure with the attached carport will maintain**

**three feet from the eastern side property lines which is not likely to alter 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.*

The carport should abide by the UDC setback standards. There are no unique circumstances existing on the property that would permit the absence of enforcement of the building codes set forth

**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. The structure facing Vanderbilt Street already existed and encroached into the eastern side setback. 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 Variances**

Staff recommends Denial **with an Alternate Recommendation** in **BOA-21-10300073 of a 2' variance to allow a carport to be 3' from the side property line** based on the following findings of fact:

1. The attached carport will be 3' away from the side property line; and
2. The structure facing Vanderbilt shall be fire rated with no opening and no overhang on the eastern portion of property line; and
3. Structure being 3' from the side property line will allow ample space to access vehicles; and
4. The carport is not out of character for the neighborhood.