



# City of San Antonio

## Legislation Details (With Text)

**File #:** 21-5161

**Type:** Staff Briefing - Without Ordinance

**In control:** Board of Adjustment

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

**Title:** BOA-21-10300093: A request by Edward Ramirez for a 3' variance from the minimum 5' side setback to allow an attached carport with 4" gutters to be 2' from the side property line, located at 3815 West Houston Street. Staff recommends Denial with an Alternate Recommendation. (Council District 5) (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-21-10300093
Applicant:	Edward Martinez
Owner:	Edward & Rosa Martinez
Council District:	5
Location:	3815 West Houston
Legal Description:	Lot 11, Block 74, NCB 3670
Zoning:	"R-4 MLOD-2 MLR-2 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Case Manager:	Roland Arsate, Planner

### Request

A request for a 3' variance from the minimum 5' side setback, as described in Section 35-310.01, to allow an attached carport with 4" gutters to be 2' from the side property line.

### Executive Summary

The subject property is located on West Houston Street. There is an existing attached carport to the side of an existing single-family structure. The applicant is requesting a variance to the side setback for a new carport to be built 2' from the property line. The applicant is wanting to replace the existing carport and build it in the exact same location. The front setback will not be encroached by the new carport. Per consultation with plan

review team, the customer would be required to fire rate any structure that is within 3' from property line.

### **Code Enforcement History**

There is no history of relevant Code Enforcement violations or investigations.

### **Permit History**

There are no relevant permits pulled for the subject property.

### **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 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-4 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-4 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-4 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-4 MLOD-2 MLR-2 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence

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

The subject property is not located within any plan area.

The subject property is located within the Las Palmas Neighborhood Association, and they were notified of this application.

### **Street Classification**

West Houston 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 2' side setback for the carport is contrary to the public interest as it may impose a fire hazard.

**Staff recommends a 2' side setback variance to allow the carport with 4" gutters to be 3' away from the side property line.**

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 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 neighboring 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 2' from the side property line the applicant will need to fire rate the side or request a Code Modification.

**If granted, the carport will maintain 3' from the side property line, which observes the spirit of the ordinance and reduces the risk of a fire hazard.**

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 2' from the eastern side property lines which may injure the adjacent property in the event of a fire.

**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 newly constructed carport to remain 2' from the side property line.

**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 West Houston Street already existed and encroached into the eastern side setback, and staff is recommending to move it 3' away.**

#### **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 and **Alternate Recommendation** in **BOA-21-10300093 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 with 4" gutters will be 3' away from the side property line; and
2. The structure being 3' from the side property line will allow ample space to access vehicles and;
3. The carport is not out of character for the neighborhood; and
4. The adjusted width of the carport will be 10'.