



# City of San Antonio

## Legislation Details (With Text)

**File #:** 21-5358

**Type:** Staff Briefing - Without Ordinance

**In control:** Board of Adjustment

**On agenda:** 9/13/2021

**Title:** BOA-21-10300101: A request by Oscar Patino for a 9' 11" variance from the minimum 10' front setback requirement to allow a detached carport to be 1" from the front property line, located at 10518 Kinderhook Drive. Staff recommends Approval. (Council District 4) (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-21-10300101
Applicant:	Oscar Patino
Owner:	Oscar Patino
Council District:	4
Location:	10518 Kinderhook Drive
Legal Description:	Lot 27, Block 48, NCB 15910
Zoning:	"R-6 MLOD-2 MLR-1AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region-1 Airport Hazard Overlay District
Case Manager:	Roland Arsate, Planner

### Request

A request for a 9' 11" variance from the 10' minimum front setback requirement, as described in Section 35-310.01, to allow a detached carport to be 1" from the front property line.

### Executive Summary

The subject property is located near the Kinderhook Drive and Saint Lawrence Street intersection. The structure located on Kinderhook Drive is a detached two vehicle carport in the front of subject property. The applicant is requesting a variance to the front setback to allow a detached two vehicle carport to be 1" away from the front property line. Upon the site visit conducted by BOA staff, other structures of similar size and dimensions were noticed throughout the local neighborhood.

**Code Enforcement History**

There are no relevant Code Enforcement violations pending.

**Permit History**

No Permits were pulled for the construction of the carport.

**Zoning History**

The subject property was annexed by the City of San Antonio by Ordinance 83136, dated December 31, 1995, and was zoned Temporary "R-1" Single-Family Residence District. The property was rezoned to "R-1" Single Family Residence District by Ordinance 85420, dated January 9, 1997. Upon adoption of the 2001 Unified Development Code, the zoning converted from "R-1" to the current "R-6" Residential Single-Family District, established by Ordinance 93881, dated May 3, 2001.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
"R-6 MLOD-2 MLR-1AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region-1 Airport Hazard Overlay District	Single-Family Residence

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	"R-6 MLOD-2 MLR-1AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region-1 Airport Hazard Overlay District	Single-Family Residence
South	"O-2 MLOD-2 MLR-1AHOD" Highrise Office Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region-1 Airport Hazard Overlay District	Vacant Commercial
East	"R-6 MLOD-2 MLR-1AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region-1 Airport Hazard Overlay District	Single-Family Residence

West	“R-6 MLOD-2 MLR-1AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region-1 Airport Hazard Overlay District	Single-Family Residence
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### **Comprehensive Plan Consistency/Neighborhood Association**

The subject property is located within the West Sector Plan and is designated “Low Density Residential” in the future land use component of the plan. The subject property is located within the Heritage Neighborhood Association and they were notified of the case.

### **Street Classification**

Kinderhook Drive 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 front setback for a detached carport, which is not contrary to the public interest and does not pose any adverse effects.**

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

**The structure facing Kinderhook Drive was constructed, so a literal enforcement of the ordinance would result in the applicant needing to relocate two post of the existing structure.**

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 structure facing Kinderhook Drive maintaining 1” from the front property line, the spirit of the ordinance will be observed and substantial justice will be done.**

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 detached carport will maintain 1” from the front property line which is not likely to alter the essential character of the district. Many other carports were observed in the surrounding**

**area with similar front setback encroachments.**

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 the plight of the owner of the property for which the variance is sought is not due to unique circumstances existing on the property. The carport already existed and encroached into the northern front setback. The circumstances were not 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 Sections 35-310, the Lot and Building Dimension Table.

### **Staff Recommendation - Front Yard Setback Variances**

Staff recommends **Approval** in **BOA-21-10300101** based on the following findings of fact:

1. The detached carport will be more than 5' away from the western side property line; and
2. The structure is made of a fire-rated material(metal); and
3. There is no issue with water run-off as it will drain onto the subject property; and
4. There are other properties in the surrounding area with similar structures.