



# City of San Antonio

## Legislation Details (With Text)

**File #:** 21-5375

**Type:** Staff Briefing - Without Ordinance

**In control:** Board of Adjustment

**On agenda:** 9/20/2021

**Title:** BOA-21-10300109: A request by Elvira Bustos for 1) a 2' 2" variance from the 10' minimum front setback to allow a carport to be 7' 10" from the front property line and 2) a 4' 1" variance from 5' minimum side setback to allow a carport to be 11" from the side property line, located at 11301 El Sendero Street. Staff recommends Denial with an Alternate Recommendation. (Council District 10) (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-21-10300109
Applicant:	Elvira Bustos
Owner:	Elvira Bustos
Council District:	10
Location:	11301 El Sendero
Legal Description:	Lot 27, Block 9, NCB 14988
Zoning:	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager:	Roland Arsate, Planner

### Request

A request for 1) a 2' 2" variance from the 10' minimum front setback, as described in Section 35-310, to allow a carport to be 7' 10" from the front property line and 2) a 4' 1" variance from 5' minimum side setback, as described in Section 35-310, to allow a carport to be 11" from the side property line.

### Executive Summary

The subject property is located along El Sendero Street near Pasquera Road. There is currently a single-family residence constructed on the property. The property is zoned "R-6" which requires a 10' front setback and 5' side setback. The applicant is requesting variances to the front and side setbacks for an existing carport frame in the front yard of the property. There is a carport on the abutting property that measures about 1' 3" from the

proposed carport.

### **Code Enforcement History**

03-2021 Oversized vehicle parked on front property  
03-2021 Short term Rental Investigation for Campers  
07-2021 Building without a permit  
07-2021 Front-Side Yard Parking  
07-2021 Right of Way Obstruction

### **Permit History**

There are not any relevant permits pulled for the carport.

### **Zoning History**

The subject property was annexed by the City of San Antonio on May 27, 1971 by Ordinance 39443 and was zoned “R-1” Single-Family Residence District. Upon adoption of the 2001 Unified Development Code, the zoning converted from “R-1” Single-Family Residence District 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 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence

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

Orientation	Existing Zoning District(s)	Existing Use
North	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
South	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
East	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
West	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence

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

The subject property is in the San Antonio International Airport Vicinity Plan and is designated “Low Density Residential” in the future land use component of the plan. The subject property is located within the Hills of Park North Neighborhood Association and were notified of the case.

### **Street Classification**

El Sendero is classified as a Collector Road.

### **Criteria for Review - Side and Rear Setback 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 and front setback in order to allow a carport in front of the existing property.

**The front setback is not contrary to the public interest and staff finds a 3' setback from the side property line will not be contrary to the public interest.**

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 having to relocate the post of the existing carport skeleton to five feet from the side property line and 10 feet from the front property line.

**There are other non-conforming structures in the area that are already built closer to the property lines than required. Imposing a side setback of 3' will cause the reduction in the setback, but will allow more than enough space for parking of the vehicles and RV.**

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 carport being 11" from the side property line does not observe the spirit of the ordinance.

**Staff finds the current 7' 10" setback from the front property line and a 3' side setback both observe 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 will maintain 7' 10" from the front property line which is not likely to alter the essential character of the district. The second request is to allow the carport to be 11" from the side property line, which staff finds is too close to the property line.

**An alternate recommendation to allow a side setback of 3' will create more separation between the carport in question and the carport on the abutting property.**

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 because the carport is close to the property lines. There are existing carports in the surrounding area with similar dimensions and size. The variance will accommodate a room for additional vehicles. 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 front and side setbacks of the UDC Sections 35-310.

### **Staff Recommendation - Front & Side Setback Variance**

Staff recommends **Approval** in **BOA-21-10300109** for the front setback variance.

Staff recommends **Denial** in **BOA-21-10300109** **with an Alternate Recommendation of a 2' variance to allow the carport to be 3' from the side property line** based on the following findings of fact:

1. **The carport frame is existing, and the structure has not yet been completed; and**
2. **The variance to the front setback maintains the spirit of the ordinance; and**
3. **Moving the carport 3' from the side property line will assist in mitigating safety issues and fire hazards; and**
4. **There are similar structures in the surrounding area.**