



# City of San Antonio

## Agenda Memorandum

**File Number:**19-8502

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**Agenda Item Number:** 6.

**Agenda Date:** 11/18/2019

**In Control:** Board of Adjustment

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Case Number: BOA-19-10300130  
Applicant: Jeanette Baylor Arce  
Owner: Jeanette Baylor Arce  
Council District: 3  
Location: 506 Golden Crown Drive  
Legal: The West 63 feet of Lot 2, Block 4, NCB 10521  
Description:  
Zoning: "R-4 MLOD-3 MLR-2 AHOD" Residential Single-Family  
Martindale Army Air Field Military Lighting Overlay  
Military Lighting Region 2 Airport Hazard Overlay District  
Case Manager: Debora Gonzalez, Senior Planner

### **Request**

A request for 1) an 8' variance from the 10' front setback requirement, as described in Section 35-370, to allow an attached carport to be 2' from the front property line and 2) a 4' variance from the 5' side setback requirement, as described in Section 35-370, to allow an attached carport to be 1' from the side property line.

### **Executive Summary**

The applicant is seeking a variance to build a carport replacement within 1' from the side setback. Per the applicant, the carport is going to be rebuilt within the previous carport 1' away from the side property line and extending it towards the front for large car coverage. In October 3, 2019, Code Enforcement discovered the carport was been rebuilt without a permit and without a Board of Adjustment variance approval. The new carport will be built of steel with a metal roof. There are a few older similar carports in the area.

### **Code Enforcement History**

On October 3, 2019 Code Enforcement issued a citation due to the carport encroaching in the 5' side setback requirement.

### **Permit History**

The applicant is waiting for the variance to be approved to obtain a permit inspection and close the carport permit.

### **Zoning History**

The subject property was annexed into the City of San Antonio by Ordinance #18115 dated September 25, 1952 as “B” Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “B” Residence District converted to the current “R-4” Single Family District.

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

<b>Existing Zoning</b>	<b>Existing Use</b>
“R-4 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling

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

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“R-4 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling
South	“R-4 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling
East	“R-4 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling
West	“R-4 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Dwelling

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

The property is within the boundaries of the Brooks Regional Center Area Plan and it is currently designated as “low density” in the future land use component of the plan. The subject property is located within the boundaries of the Highland Hills Neighborhood Association. As such, they were notified and asked to comment.

## Street Classification

Golden Crown is classified as a Minor Street.

## Criteria for Review

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 served by setbacks, which help to provide consistent development within the City of San Antonio. The applicant is seeking variances to allow the carport to be 1' from the side property line and 2' from the front property line. The requested setbacks fail to provide adequate fire separation distance, provide no room for maintenance, and may drain water onto adjacent property. Staff finds that the carport, as proposed, is contrary to the public interest.

**Staff supports reducing the side setbacks to 2', which would provide adequate room for maintenance and would provide better separation for fire spread and rainwater runoff.**

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

Staff is unable to establish any special condition that warrants reducing the front and side setback.

**The applicant could modify the proposed carport to have a 2' side setback and meet the front setback requirement.**

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 the intent of the code, rather than the strict letter of the law. The intent of the code is to provide for consistent development and to establish room for maintenance, and to reduce the threat of fire spread. The requests to reduce the front and side setbacks do not observe the intent of the code.

**Staff supports a modified setback reduction to 2' side setback, as it addresses these concerns.**

4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the district in which the request for a variance is located.*

**The variance will not authorize the operation of a use other than those uses specifically authorized in the zoning district.**

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.*

While other structures in the neighborhood enjoy reduced setbacks, staff cannot support a 2' front setback and 1' side setback. They both pose immediate risk to adjacent property and leaves no room for maintenance of the structure.

**The carport could be modified to allow carport structure at 2' side 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 is unable to determine a unique circumstances existing on the site.

The carport should be designed in a manner that respects the intent of the code.

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

Denial of the variance request would result in the owner having to meet the required side and front setback and adhere to Section 35-370.

### **Staff Recommendation**

Staff recommends **DENIAL** of 1) an 8' front variance from the 10' front setback requirement to allow an attached carport to be 2' from the front property line and 2) a 4' variance from the 5'side setback requirement to allow an attached carport to be 1' from the side property line and an **Alternate Recommendation** of 2) a 3' variance from the 5'side setback requirement to allow an attached carport to be 2' from the side property line, in **BOA-19-10300130**, based on the following findings of fact:

1. There are no special conditions present to warrant the granting of the requested variances of a 2' front setback and 1'side setback, and;
2. Staff recommends an alternate of the carport setback variance to be 2' from the side property line to mitigate storm water runoff and adequately prevent fire spread.