



# City of San Antonio

## Agenda Memorandum

**File Number:**20-3995

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**Agenda Item Number:** 2.

**Agenda Date:** 7/6/2020

**In Control:** Board of Adjustment

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Case Number: BOA-20-10300032  
Applicant: Silvia Torres Castaneda  
Owner: Silvia Torres Castaneda  
Council District: 2  
Location: 1002 South Pine Street  
Legal Description: Lot B, Block 3, NCB 1031  
Zoning: "RM-4 AHOD" Residential Mixed Airport Hazard Overlay  
District  
Case Manager: Azadeh Sagheb, Planner

### **Request**

A request for 1) a 6' variance from the required 10' front setback, as described in Section 35-310.01, for a carport to be 4' away from the front property line, and 2) a 3'7" variance from 5' required side setback, also as described in Section 35-310.01, for a carport to be 1'5" away from the side property line.

### **Executive Summary**

The subject property is a single-family home located at 1002 South Pine Street, North of Aransas Avenue, and South-east of Alamodome. The applicant is requesting to keep a carport built without permit within the front and side setback. The carport is entirely made of wood, measuring 11'03" in width, 60'08" in length, and 11" overhang. The roof with a slight slope to the side property line will direct the storm water on the neighbor's property and the rear garage structure. No gutters have been installed on the carport.

The neighborhood is surrounded by single-family residences, and staff did not observe any carports within the immediate vicinity.

### **Code Enforcement History**

There is a pending code enforcement record for the carport built without permission.

### **Permit History**

The property has no permits on file.

### **Zoning History**

The subject property is in the original 36 square miles of the City of San Antonio and originally was zoned as “R-2” Two-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 3, 2001, the property zoned “R-2” Two-Family Residence District was converted to “RM-4” Residential Mixed District.

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

<b>Existing Zoning</b>	<b>Existing Use</b>
“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Residential Mixed

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

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Residential Mixed
South	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Residential Mixed
East	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Residential Mixed
West	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Residential Mixed

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

The subject property is in the Arena District Plan and designated as “Medium Density Residential” in the future land use component of the plan. The subject property is in the boundaries of the Denver Heights Neighborhood Association and as such, they were notified of the case.

### **Street Classification**

South Pine Street is classified as a local 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 defined as the general health, safety, and welfare of the public. In this case, the public

interest is served by setbacks. The carport design creates rainwater runoff issue for both the applicant's property as well as the adjacent neighbor. The structure fails in adequately drain the storm water runoff. As the wood carport has been built attached to the garage the chance of fire spread is high.

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

Staff cannot find any special conditions that would result in any unnecessary hardship. If a permit was obtained, staff could have advised on other alternative to comply with the code requirements and meet the applicant's expectations.

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 request does not observe the spirit of the ordinance. The intent of the setback limitation is to provide adequate space for maintenance, fire separation, and prevent storm water runoff onto adjacent properties. With the lack of a proper rainwater control system, and availability of an alternative solution to push the front posts back, staff cannot support the request.

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.*

The requested variance will not authorize the operation of uses other than those allowed within the current 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.*

The carport is already constructed and it is out of character within the neighborhood. There is no other similar carport within the immediate vicinity. The applicant can modify the front posts and utilize a proper rainwater controlling system to meet the requirements.

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 does not find any unique circumstances that warrant the granting of this request. If applicant applied for a permit, staff could have assisted with an alternative design that benefits the applicant and the community.

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

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

### **Staff Recommendation**

Staff recommends **DENIAL** of **BOA-20-10300032** based on the following findings of fact:

1. The requested variance does not provide adequate space to allow storm water runoff, and long

term maintenance, and;

2. There are no unique circumstances present that warrant the request.