



# City of San Antonio

## Agenda Memorandum

**File Number:**20-4699

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**Agenda Item Number:** 3.

**Agenda Date:** 8/17/2020

**In Control:** Board of Adjustment

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Case Number: BOA-20-10300072  
Applicant: Leticia G Bolanos  
Owner: Leticia G Bolanos  
Council District: 2  
Location: 4430 Summer Sun Lane  
Legal Description: Lot 53, Block 6, NCB 13699  
Zoning: "NP-10 AHOD" Neighborhood Preservation Airport Hazard  
Overlay District  
Case Manager: Azadeh Sagheb, Planner

### **Request**

A request for a 3'11" variance from the required 5' side setback, as described in Section 35-370, to allow a carport to be 1'1" away from the side property line.

### **Executive Summary**

The subject property is a single-family home located at 4430 Summer Sun Lane, East of San Antonio International Airport, and South of Wurzbach PKWY. The neighborhood is surrounded by residential buildings. The applicant is requesting to keep a carport built without permit within the side setback. The carport is made of wood, measuring 18' in width, 17' in length, and 25' up to the front edge. There are gutters installed on the carport and there is additional cement beyond the carport area.

### **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 was annexed into the City of San Antonio by Ordinance 33866, dated January 1, 1966 as “R-A” Residence-Agriculture District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 3, 2001, the property zoned “R-A” Residence-Agriculture District was converted to “NP-10” Neighborhood Preservation District.

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

Existing Zoning	Existing Use
“NP-10 AHOD” Neighborhood Preservation Airport Hazard Overlay District	Residential

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

Orientation	Existing Zoning District(s)	Existing Use
North	“NP-10 AHOD” Neighborhood Preservation Airport Hazard Overlay District	Residential
South	“NP-10 AHOD” Neighborhood Preservation Airport Hazard Overlay District	Residential
East	“NP-10 AHOD” Neighborhood Preservation Airport Hazard Overlay District	Residential
West	“NP-10 AHOD” Neighborhood Preservation Airport Hazard Overlay District	Residential

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

The subject property is in the San Antonio International Airport Vicinity Plan and designated as “Low Density Residential” in the future land use component of the plan. The subject property is not located within the boundaries of a registered neighborhood association.

### **Street Classification**

Summer Sun Lane 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 built carport fails in providing adequate space for maintenance of the structure and fire spread separation **without trespassing onto the adjacent property**. 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, and fire separation.

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.

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(b)(1).

### **Staff Recommendation**

Staff recommends **DENIAL** of **BOA-20-10300072** based on the following findings of fact:

1. The requested variance does not provide adequate space for maintenance, and fire spread control, and;
2. There is no unique circumstances present that warrant the request, and;
3. There are no other carports of similar design, placement, and within the area.