



# City of San Antonio

## Agenda Memorandum

**File Number:**21-4484

**Agenda Item Number:** 10.

**Agenda Date:** 6/21/2021

**In Control:** Board of Adjustment

Case Number:	BOA-21-10300074
Applicant:	Jason Rios
Owner:	Jason Rios
Council District:	10
Location:	2110 E Lawndale Dr
Legal Description:	Lot E 21 ft of 5 and W 51 ft of 6, Block 1, NCB 12199
Zoning:	"NP-8 AHOD" Neighborhood Preservation Airport Hazard Overlay District
Case Manager:	Mirko Maravi, Senior Planner

### **Request**

A request for a 10' variance from the minimum 20' front setback, as required in Section 35-353(c), to allow a carport to be 10' from the front property line.

### **Executive Summary**

The subject property is located just west of the intersection of East Lawndale Drive and North New Braunfels Avenue in a predominantly zoned "Neighborhood Preservation District" and "Residential Single-Family District" with uses being single-family dwellings. The applicant is requesting a front carport setback of 10' which would normally be permitted in a single-family dwelling zoning "Residential Single-Family". The Neighborhood Preservation District was created to prevent subdivisions to avoid congestion and prevent overcrowding of land. The Neighborhood Preservation District requires a 20' front setback.

The property owner applied for a permit on December 12, 2020, to construct the carport with a 10 foot setback. The permitting team reviewed the permit and issued the permit on December 20, 2020, in error, assuming that the "NP-10" special zoning district had a similar minimum front setback requirements for all other conventional residential districts of 10 feet. In May, a complaint regarding the construction was reported and code enforcement issued a citation regarding the 20 foot minimum front setback requirement. The applicant applied for a variance for the carport variance with a 10' front setback in order to maintain what has been constructed and approved with the permit.

## **Code Enforcement History**

INV-BLD-INV21-23200071 for building within the front setback of the zoning district on May 28, 2021. The investigation is pending resolution of the applied variance.

## **Permit History**

RES-IMP-APP20-32000075 for the carport was applied for on December 12, 2020 and approved on December 20, 2020.

## **Zoning History**

The subject property was annexed into the City of San Antonio by Ordinance 18115, dated September 25, 1952 and zoned "A" Single-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned "A" Single-Family Residence District converted to the current "R-5" Residential Single-Family District. The property was rezoned by Ordinance 2006-06-15-0728, dated June 15, 2006 to the current "NP-8" Neighborhood Preservation District.

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

<b>Existing Zoning</b>	<b>Existing Use</b>
"NP-8 AHOD" Neighborhood Preservation Airport Hazard Overlay District	Single-Family Residence

## **Surrounding Zoning/Land Use**

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	"NP-8 AHOD" Neighborhood Preservation Airport Hazard Overlay District	Single-Family Residence
South	"NP-8 AHOD" Neighborhood Preservation Airport Hazard Overlay District	Single-Family Residence
East	"NP-8 AHOD" Neighborhood Preservation Airport Hazard Overlay District	Single-Family Residence
West	"NP-8 AHOD" Neighborhood Preservation Airport Hazard Overlay District	Single-Family Residence

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

The subject property is located within the Northeast Inner Loop Community Plan and is designated "Low Density Residential" in the future land use component of the plan. The subject property is located within the Oak Park-Northwood Neighborhood Association as such they were notified of the case.

## **Street Classification**

E Lawndale Dr is classified as a Local Roads.

## **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 carport setback, which is not contrary to the public interest. The proposed setback variance is inconsistent with the block as no other homes on Lawndale encroach the 20 foot front setback.

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

There are no special conditions that would result in unnecessary hardship. The carport structure if built to the required 20 foot setback would have a depth of 14', which could cover a parked vehicle.

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 intent of the Neighborhood Preservation Districts is to avoid congestion and overcrowding of land, which the proposed variance will cause.

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.*

The carport will be the only one on E. Lawndale within the front setback and will alter the essential character of the district. Carports on the neighboring street of Camellia were built before the area rezoning in 2006.

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. A carport with adequate district setback is able to cover a vehicle.

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

The alternative to the applicant's request is to conform to the Neighborhood Preservation Districts Regulations Dimensional Regulations of Section 35-353(c).

### **Staff Recommendation**

Staff recommends Denial in **BOA-21-10300074** based on the following findings of fact:

1. The carport with adequate setbacks can cover a vehicle; and
2. The essential character of the neighborhood will be altered by the introduction of a reduced setback.