



# City of San Antonio

## Agenda Memorandum

**File Number:**21-4986

**Agenda Item Number:** 6.

**Agenda Date:** 8/2/2021

**In Control:** Board of Adjustment

Case Number:	BOA-21-10300075
Applicant:	Francisco Leija
Owner:	Francisco Leija
Council District:	6
Location:	2414 Suzette Avenue
Legal Description:	Lot 4, Block 19, NCB 16529
Zoning:	"R-6 MLOD-2 MLR-1 AHOD" Residential Single-Family Lackland Air Force Base Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District
Case Manager:	Kayla Leal, Senior Planner

### **Request**

A request for 1) a 2' 6" variance from the minimum 5' side setback, as described in Section 35-310.01, to allow a carport to be 2' 6" away from the side property line, 2) a 9' 9" variance from the minimum 10' front setback, as described in Section 35-310.01, to allow a carport to be 3" away from the front property line, 3) a 4' 11" variance from the minimum 5' side setback, as described in Section 35-310.01, to allow a 1" side setback, and 3) a 40% variance from the 50% limit front yard impervious cover, as described in Section 35-515, to allow a front yard impervious cover of 90%, and 4) a 11' 5" variance from the minimum 15' Clear Vision area, as described in Section 35-514, to allow a driveway with a 3' 7" clear vision area.

### **Executive Summary**

The subject property is located along Suzette Avenue and there is a single-family residence on the property. The applicant has constructed a large carport in the front of the residence which measures about 40 feet wide and 25 feet deep. The carport encroaches into the side and front setbacks by 2' 6" and 9' 9", respectively. Additionally, the concrete slab placed underneath the carport has exceeded the 50% impervious cover limit for any front yard of a property, so the applicant is requesting a variance for this as well. With the carport being so built to the front property line, there is an additional request for a variance from the minimum 15' clear vision requirement. Lastly, upon the site visit, a structure within the side setback along the northern property line was observed. The structure is 1" away from the northern property line.

### **Code Enforcement History**

There is currently a Permit Investigation pending resolution for Building Without a Permit, which was opened on May 24, 2021.

### **Permit History**

The applicant needs to obtain appropriate permits. A Building Permit was not pulled for the structures being heard.

### **Zoning History**

The property was annexed into the City of San Antonio by Ordinance 43495, dated April 22, 1974 and was originally zoned "Temporary R-1." The property was rezoned by Ordinance 52120, dated April 24, 1980 to the "R-2" Two-Family Residence District. The property was rezoned again by Ordinance 63266, dated July 17, 1986 to the "I-1" Light Industry District. The zoning converted from "I-1" Light Industry District to the current "I-1" General Industrial District upon adoption of the 2001 Unified Development Code (Ordinance 93881, dated May 3, 2001). The property was rezoned by Ordinance 2015-08-06-0674, dated August 6, 2015 to the current "R-6" Residential Single-Family District.

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

<b>Existing Zoning</b>	<b>Existing Use</b>
"R-6 MLOD-2 MLR-1 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 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-6 MLOD-2 MLR-1 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-family dwelling
South	"I-1 MLOD-2 MLR-1 AHOD" General Industrial Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Vacant
East	"R-6 MLOD-2 MLR-1 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-family dwelling

West	"C-2 MLOD-2 MLR-1 AHOD" Commercial Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Veterans of Foreign Wars
------	---	--------------------------

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

The subject property is located in the West/ Southwest Sector Plan and is designated “Suburban Tier” in the future land use component of the plan. The subject property is located within the Cable-Westwood Neighborhood Association, and they were notified of this application.

### **Street Classification**

Suzette Avenue is classified as a local road.

### **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 side setback for an attached carport that has a large amount of coverage of the front yard and required a large amount of concrete to be poured on the front yard. The front of the carport is too close to the front property line, which is 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 adjusting the carport to be 5’ from the side property line and 10’ from the front property line. The size of the carport could be reduced in order to have a greater setback from the property lines.

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 recommended variance to allow a 5’ front setback variance will maintain the spirit of the ordinance to create more space between the carport and the Right-Of-Way.

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 large structure is out of character of the district, but a reduction will not substantially injure the use of adjacent properties. The addition to the side of the home is not appropriate in its current location, so it is recommended to be moved further back to reduce a fire hazard.

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 circumstances were created by the owner of the property. If the property owner pulled permits prior to construction, they would have been notified of the building setbacks.

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

The alternative to the applicant's request is to conform to the Lot and Building Dimensions of the UDC Sections 35-310.01, the Fence Height Regulations of Section 35-514, and the Lot Layout Regulation of 35-515.

#### **Staff Recommendation - Side Setback Variance for Carport**

Staff recommends Denial of BOA-21-10300075 based on the following findings of fact:

1. There is adequate space for vehicular parking with the carport having a 5' side setback; and
2. The adjusted width of the carport would be 37' 6".

#### **Staff Recommendation - Side Setback Variance for Attached Patio Structure**

Staff recommends Denial **with an Alternate Recommendation of a 2' variance to the minimum side setback of 5' to allow an attached structure to be 3' away from the side property line** in BOA-21-10300075 based on the following findings of fact:

1. The attached structure is currently 1" away from the side property line and poses a fire hazard.

#### **Staff Recommendation - Front Setback Variance for Carport**

Staff recommends Denial **with an Alternate Recommendation of a 5' variance to the minimum side setback of 5' to allow the carport to be 5' away from the front property line** in BOA-21-10300075 based on the following findings of fact:

1. The adjusted depth of the carport will be 20' which will fit the length of a vehicle; and
2. The front setback of 5' will reduce the

#### **Staff Recommendation -Variance for Impervious Cover**

Staff recommends **Approval** in **BOA-21-10300075** based on the following findings of fact:

1. The impervious cover will not substantially injure adjacent properties; and
2. The impervious cover shall be limited to 90% of the front yard.

#### **Staff Recommendation -Variance for Clear Vision Area**

Staff recommends **Approval** in **BOA-21-10300075** based on the following findings of fact:

3. The predominately open fencing will provide adequate clear vision for the property; and
4. The gate will remain on a rolling track which does not impose further visual issues.