



# City of San Antonio

## Agenda Memorandum

**File Number:**21-5153

**Agenda Item Number:** 9.

**Agenda Date:** 8/16/2021

**In Control:** Board of Adjustment

Case Number:	BOA-21-10300081
Applicant:	Mary McGehee
Owner:	Mary McGehee
Council District:	3
Location:	223 West Mayfield Boulevard
Legal Description:	Lot S 285.6 FT of 225, NCB 7848
Zoning:	"R-6 MLOD-2 MLR-2 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Case Manager:	Roland Arsate, Planner

### **Request**

A request for a 4' 11" variance from the minimum 5' side setback, as described in Section 310-1, to allow an attached carport to be 1" from the side property line.

### **Executive Summary**

The subject property is located on West Mayfield Street. There is an attached carport to the side of an existing single-family structure. The applicant is requesting a variance to the side setback for a carport to be built 1" from the property line.

Upon the site visit, staff observed the carport not being fire rated and its proximity to the property line. Additionally, the carport is attached to existing house and accessory structure. The existing accessory structure was observed to be 2' from the side property line as well but is non-conforming structure. Per consultation with the DSD plan review team, the customer would be required to either fire rate the side of the carport or obtain a Code Modification Request (CMR).

### **Code Enforcement History**

Permit Investigation for building without a permit for fence on August 12, 2012.

Permit Investigation for building without a permit for a carport on June 28, 2016.

### **Permit History**

Foundation permit pulled on August 25<sup>th</sup>, 2010.

Fence permit pulled on October 23<sup>rd</sup>, 2012.

Re-roof permit pulled on November 8<sup>th</sup>, 2017.

### **Zoning History**

The subject property is was annexed by the City of San Antonio on September 23, 1944, established by Ordinance 13941, and was zoned “B” Residence District. The property was rezoned from “B” Residence District to “R-1” Single-Family Residence District, established by Ordinance 84398, dated July 11, 1996. The zoning converted from “R-1” to the current “R-6” Residential Single-Family District upon adoption of the 2001 Unified Development Code (Ordinance 93881, dated May 3, 2001).

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

<b>Existing Zoning</b>	<b>Existing Use</b>
“R-6 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 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	“R-6 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
South	“R-6 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
East	“R-6 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
West	“R-6 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence

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

The subject property is designated “Low Density Residential” in the future land use component of the South

Central Community Plan. The subject property is not located within a Neighborhood Association.

### **Street Classification**

West Mayfield 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, which is not contrary to the public interest. However, the 1" side setback for the carport is contrary to the public interest.

**Staff recommends a 2' side setback variance from the 5' minimum requirement.**

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

The structure facing West Mayfield was constructed, so a literal enforcement of the ordinance would result in the applicant needing to relocate the carport 5' from side property line.

**Staff recommends a relocation of the carport no closer than 3' from side property line with fire rating (no openings and no overhang) on the side of the carport abutting the neighbor property.**

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. With the carport maintaining 1" from the side property line, the spirit of the ordinance will not be observed and substantial injustice will be done.

**The carport will maintain 3' from the side property line as well as fire rating the structure, which observes the spirit of the ordinance.**

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.*

If granted, the structure with the attached carport will maintain 1" from the eastern side property line which

is likely to alter the essential character of the district.

**If the alternate recommendation is granted, the structure with the attached carport will maintain three feet from the western side property line, which is not likely to alter the essential character of the district.**

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.*

The carport should abide by the UDC setback standards. There are no unique circumstances existing on the property that would permit the absence of enforcement of the building codes set forth.

**Staff finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property. The structure facing West Mayfield Street already existed and encroached into the western side setback. The circumstances are not merely financial.**

### **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.

### **Staff Recommendation - Side Setback Variances**

Staff recommends Denial **with an Alternate Recommendation** in **BOA-21-10300081** of a **2' variance to allow a carport to be 3' from the side property line** based on the following findings of fact:

1. The attached carport will be 3' away from the side property line; and
2. The structure facing West Mayfield shall be fire rated with no opening and no overhang on the western portion of property line or obtain code modification request (CMR); and
3. Structure being 3' from the side property line will allow ample space to access vehicles; and
4. The carport is not out of character for the neighborhood.