



Los Alamos County
Community Development Department

**PLANNING & ZONING COMMISSION
STAFF REPORT**

Public Hearing Date: April 22, 2025
Subject: Variance; Case No. VAR-2025-0014
Applicants/Owners: Jacoby and Heather Baker, Property Owners
Case Manager: Danyelle Valdez, Planning Manager

Professional Background:

Bachelor's degree in business administration; 12 years' experience in Real Estate Development, Project Management, Planning and Land Use.

Case No. VAR-2025-0014 - Property owners Jacoby and Heather Baker request a variance for 2339 35th Street, Los Alamos. The request seeks to reduce the required front setback in Residential Mixed (RM-1) zone district from 20 feet to 1.5 feet to allow placement of an accessory structure (carport).



Figure 1: Aerial Image - Subject Property & Proposed Location

EXECUTIVE SUMMARY

Jacoby and Heather Baker, property owners of 2339 35th Street in Los Alamos, request approval of a variance to reduce the required front setback in Residential Mixed (RM-1) zone district from 20 feet to 1.5 feet to allow placement of an accessory structure (carport).

Under Chapter 16 of the Los Alamos County Development Code, Section 16-5, Table 5 establishes a minimum 20-foot front setback for residential structures in the RM-1 district.

Pursuant to Section 16-21, *Permitted Projections into Required Setback Areas*, carports may occupy up to 40 percent of the required front setback—equating to an approximate 8-foot encroachment and a minimum remaining distance of 12 feet from the front property line. However, existing parking improvements on the site constrain the applicant’s ability to comply with this setback requirement.

Because the proposed carport would encroach beyond the 40% allowance, a variance approval under Section 16-74(g) is required.

PROPERTY INFORMATION & BACKGROUND

The subject property, located at 2339 35th Street in Los Alamos, is a 0.33-acre lot developed with a 2,979-square-foot townhome built in 1949. The property is legally described as North Community 3, Lot 105, Section 9, Township 19N, Range 6E.

The applicants submitted a building permit application, which was denied by the Planning Division on July 29, 2025. Following the denial, the applicants engaged in discussions with Community Development and Planning staff to explore alternative options. They elected to pursue a variance to request relief from the front setback requirement.

The side property line extends through an existing paved parking area. Of the available spaces in this area, one is located within the boundary of the parcel at 2339 35th Street. A mature pine tree is situated adjacent to this parking space.

The applicants have stated that the carport is intended to provide protection for their vehicle from both weather exposure and sap from the adjacent tree. While tree removal is a possible solution, they have indicated it would be an undesirable outcome.



Figure 2: Current Conditions

INTERDEPARTMENTAL REVIEW COMMITTEE (IDRC) REVIEW

On September 25, 2025, the Interdepartmental Review Committee (IDRC) convened to review the variance application. The Committee discussed the proposal and unanimously recommended that the application proceed to the Planning and Zoning Commission for consideration.

IDRC Members Present:

- Danyelle Valdez, Planning Manager / Case Manager
- Desirae Lujan, Senior Planner
- Eric Ulibarri, County Engineer, Public Works
- Jennifer Morrow, Senior Engineer, Public Works
- James Martinez, DPU Engineering
- Colorado Cordova, Fire Marshal
- Adrienne Lovato, Senior Management Analyst, Building Division

The following comments and conditions were noted:

Requirements:

- The existing structure must be removed, as it was constructed without a permit and does not meet current building code requirements.
- If the variance is approved, the applicant must apply for a permit prior to construction of any new structure.
- The proposed carport must be finished with a roofing material designed to sustain structural integrity.
- The roof must be designed so that it does not drain or slope toward the adjacent property/neighboring parking space.

Compliance with these requirements will be reviewed and enforced through the permit process if the variance is approved.

PUBLIC NOTICE

The *Los Alamos County Code of Ordinances, Chapter 16 – Development Code, Sec. 16-72(c) Notifications*, sets forth the requirements for proper notice to the public for a public hearing:

- *Published and Posted Notice [16-72(c)(4)]*: Notice published in a newspaper of general circulation within the County at least 14-calendar days before the meeting or hearing. **Published October 2, 2025**
The posting of at least one sign on a street abutting the property that is the subject of the application – visible from the street – for at least 14-calendar days before the public meeting or hearing. **Posted October 7, 2025**

- Mailed Notice [16-72(c)(5)(c)]: Mailed notice 14 days prior to the public hearing to all owners of record as identified in the records of the County Tax Assessor or occupants of properties within 300 ft., excluding public rights-of-way, of exterior lot lines of the subject property. **Mailed October 7, 2025**

VARIANCE DECISION CRITERIA

Section 16-74(g)(3) of the Los Alamos County Development Code states that an application for a Variance shall be approved if it meets all the following criteria:

a. *The variance will not be contrary to the public safety, health, or welfare.*

Applicant Response: The location of the carport does not impede sidewalk traffic or with parking access for the two adjacent parking spaces. This carport is 10 feet by 20 feet and is placed on an existing parking space that is 13 feet wide and 21 1/2 feet long. Two sides of the carport is enclosed by cement stem walls. The stem wall on the West side is approx. 4 1/2 feet tall and approx 6 inches thick. the North side stem wall is approx. 4 1/2 feet tall and tapers down ground level close to the sidewalk.

Staff Response: It is the expert opinion of staff that this criterion has been met. Placement of an accessory structure in this location does not present a risk to public health, safety, or welfare.

b. *The variance will not undermine the intent of this Code, the applicable zone district, other county adopted policies or plans, or violate the building code.*

Applicant Response: This carport will not undermine applicable policies or the intent of building codes.

Staff Response: It is the expert opinion of staff that this criterion has been met. Approval of a variance for the placement of a properly permitted structure would not undermine the intent of the Development Code. The proposed location of a carport would not obstruct visibility, pedestrian or vehicular access in a manner that would compromise public safety. The adjacent sidewalk remains clear and unobstructed, and the proposed structure does not interfere with the functionality of nearby parking spaces.

The accessory structure will require compliance with applicable code requirements, including drainage direction, will be reviewed through the permit process to further ensure protection of public health, safety, and welfare.

c. *Granting of the variance will not cause an intrusion into any utility or other easement unless approved by the owner of the easement.*

Applicant Response: Based upon Site Plan dated April 24, 1986, this carport does not impede on the water, gas, water, or sewer easements.

Staff Response: It is the expert opinion of staff that this criterion has been met. Review by the Interdepartmental Review Committee (IDRC), including the Los Alamos County Department of Public Utilities, confirmed that the proposed structure does not intrude upon any public or private utility easements.

d. The variance request is caused by unusual physical characteristic or a hardship inherent in the lot or lot improvements and the peculiarity or hardship has not been self-imposed.

Applicant Response: This designated parking space does not allow for a setback due to the terrain.

Staff Response: It is the expert opinion of staff that this criterion has been met. The need for the variance arises from physical characteristics inherent to the site, including the existing slope and the original site layout established with the 1948 development of the townhome. The designated parking area is partially located within the front setback and constrained by grade changes and adjacent improvements, which limit the ability to relocate parking or provide adequate cover without encroaching into the required setback.

These conditions are specific to the property and are not the result of actions taken by the current property owners. The hardship is not self-imposed and results from circumstances beyond the applicants' control.

e. The variance will not create any significant adverse impacts on properties within the vicinity.

Applicant Response: Since this carport will be located on an existing vehicle parking spot and does not impact sidewalk traffic or access to adjacent parking spots there is not impacts to properties withing the vicinity.

Staff Response: It is the expert opinion of staff that this criterion has not been met. The proposed structure presents potential drainage impacts to the adjacent property. As presented, the roof slope creates direct runoff onto the neighboring parking space owned by an adjacent lot owner.

While the carport is located within an existing parking area, without adequate design modifications to redirect runoff away from adjoining property, the structure would create an adverse impact on the neighbor.

For these reasons, the variance, as proposed, does not satisfy this criterion.

f. Granting of the approved variance is the minimum necessary easing of the Code requirements making possible the reasonable use of the land, structure, or building.

Applicant Response: This carport does make for reasonable use of this parking spot. Primary reason for a covered parking spot is to eliminate sap from a pine tree falling onto vehicles that use this parking spot.

Staff Response: It is the expert opinion of staff that this criterion has not been met. This criterion addresses whether the request represents the minimum necessary deviation from the Development Code to allow for reasonable use of the property. Staff finds that the requested reduction to a 1.5-foot front setback exceeds the minimum necessary relief to enable reasonable use of the property.

In this case, the property is fully developed and supports reasonable residential use consistent with the RM-1 zoning district. The property currently includes other options for off-street parking. The parking space in question is functional without a carport, and the stated justification does not rise to the level of hardship warranting a variance. Alternative solutions, such as tree trimming, or selective tree removal, are available without requiring a variance.

DRAFT MOTIONS

Recommended Motion, Approve with Conditions:

I move to **conditionally approve**, Case No. VAR-2025-0014, a request by Jacoby and Heather Baker, property owners, for a variance from Los Alamos County Code, Chapter 16, Article II, Division 3 (Base Zone District Dimensional Standards) for 2339 35th Street, Los Alamos. The request seeks to reduce the required 20-foot front yard setback in the Residential Mixed (RM-1) zone district to 1.5 feet to allow an accessory structure.

Approval is based on the findings established at the hearing and the conclusion that the Applicant has met the decision criteria for a Variance per Section 16-74(g)(3) of the Los Alamos County Development Code, subject to the following conditions:

1. The carport roof shall be constructed of a material capable of withstanding local weather conditions to ensure structural integrity and public safety.
2. The carport roof shall be designed to slope and drain away from the adjacent property, ensuring no runoff flows into neighboring parking area or parcel.

The Commission acts under the authority of Section 16-69(b)(2) and (6) of the Development Code.

I further move to authorize the Chair to sign the Findings of Fact and Conclusions of Law for this case that reflects the decision of the Commission. This document will be prepared by county staff based on this decision.

Alternative Motion 1, Approval:

I move to **approve** Case No. VAR-2025-0014, a request by Jacoby and Heather Baker, property owners, for a variance from Los Alamos County Code, Chapter 16, Article II, Division 3 (Base Zone District Dimensional Standards) for 2339 35th Street, Los Alamos. The request seeks to reduce the required 20-foot front yard setback in the Residential Mixed (RM-1) zone district to 1.5 feet to allow an accessory structure.

Approval is based on the Findings of Fact established at the hearing and the determination that the Applicant has met the decision criteria for Variance per Section 16-74(g)(3) of the Los Alamos County Development Code. The Commission acts under the authority of Section 16-69(b)(2) and (6) of the Development Code.

I further move to authorize the Chair to sign the Findings of Fact and Conclusions of Law for this case that reflects the decision of the Commission. This document will be prepared by county staff based on this decision.

Alternative Motion 2, Deny:

I move to **deny** Case No. VAR-2025-0014, a request by Jacoby and Heather Baker, property owners, for a variance from Los Alamos County Code, Chapter 16, Article II, Division 3 (Base Zone District Dimensional Standards) for 2339 35th Street, Los Alamos. The request seeks to reduce the required 20-foot front yard setback in the Residential Mixed (RM-1) zone district to 1.5 feet to allow an accessory structure.

Denial is based on the findings established at the hearing and the conclusion that the Applicant has not met the decision criteria for a Variance per Section 16-74(g)(3) of the Los Alamos County Development Code. The Commission acts under the authority of Section 16-69(b)(2) and (6) of the Development Code.

I further move to authorize the Chair to sign the Findings of Fact and Conclusions of Law for this case that reflects the decision of the Commission. This document will be prepared by county staff based on this decision.

REFERENCE

Los Alamos County, Chapter 16, Development Code: <https://lacnm.com/MunicipalCode>