



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** December 16, 2024

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

**DEPARTMENT HEAD:** Amin Tohmaz, Interim Department Head

**CASE NUMBER:** BOA-24-10300224

**APPLICANT:** Jose Dominguez

**OWNER:** Jose Dominguez

**COUNCIL DISTRICT IMPACTED:** District 2

**LOCATION:** 3726 Electra Drive

**LEGAL DESCRIPTION:** Lot 10, Block 6, NCB 12342

**ZONING:** "R-5 MLOD-3 MLR-2 AHOD" Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

**CASE MANAGER:** Melanie Clark, Planner

**A request for**

1) A 3'-6" variance from the minimum 5' side setback to allow an attached carport to be 1'-6" from the side property line.

Section 35-310.01

2) A 4' Fence height Special Exception from the maximum 3' fence height, limited to 10' past the front facade, to allow a 7' solid front yard fence.

Section 35-514

3) An 8'-9" variance from the minimum 15' clear vision to allow a driveway with a 6'-3" clear vision.

Section 35-514(a)(2)

### **Executive Summary**

Subject property is located south of Eisenhower Road, east of Corinne Drive, on Electra Drive. On January 16, 2024, Code Enforcement investigated a citizen complaint for a carport being constructed without a permit and issued a stop work order. Between January 17-26, 2024, the applicant, being the property owner, applied for Residential Improvement and Carport permits, but found that the carport did not meet setback requirements. The applicant is seeking a 3'-6" variance to allow an attached carport to remain 1'-6" from the side property line. Additionally, during site visits, Staff found that a portion of the front yard fence, extending approximately 10' past the front façade, required a 4' Fence Height Special Exception to allow a 7' front yard fence. The remaining portion of the front yard fence, 3' in height, requires an 8'-9" variance to allow for a 6'-3" driveway clear vision. Permits are pending the outcome of the Board of Adjustment

### **Code Enforcement History**

INV-PBP-24-3100000222- PMT Building without a permit.

### **Permit History**

RES-FEN-APP24-31801263 – Residential Fence

RES-COV-PMT24-32300736 – Covered Patio or Porch

RES-CRT-PMT24-32200104 – Carport Permit

RES-IMP-APP24-322000104 – Residential Improvements

### **Zoning History**

Subject property was annexed into the City of San Antonio by Ordinance 18115 dated, September 24, 1952, and zoned "A" Single-Family Residence District. With the adoption of the 2001 Unified Development Code (UDC), established by Ordinance 93881, on May 3, 2001, the subject property converted from "A" Single-Family Residence District to "R-5" Residential Single-Family District.

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

#### **Existing Zoning**

"R-5 MLOD-3 MLR-2 AHOD" Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

#### **Existing Use**

Single-Family Residence

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

#### **North**

#### **Existing Zoning**

"R-5 MLOD-3 MLR-2 AHOD" Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

#### **Existing Use**

Single-Family Residence

#### **South**

#### **Existing Zoning**

“R-5 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**East**

**Existing Zoning**

“R-5 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**West**

**Existing Zoning**

“R-5 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

**Existing Use**

Single-Family Residence

**Comprehensive Plan Consistency/Neighborhood Association**

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

**Street Classification**

Electra Drive is classified as a local road.

**Criteria for Review – Side Setback and Driveway Clear Vision Variance**

According to Section 35-482(e) of the UDC, 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 reduced side setback is contrary to public interest as it does not leave enough space between abutting property causing increased risk for fire spread and water runoff onto the neighboring property. The front yard fence can be reduced to meet the driveway clear vision standards.

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

Special conditions do not exist on the property as there is sufficient and existing space for a carport to cover vehicles and a reduction of the front yard fence would not cause an unnecessary hardship.

*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 code is to provide adequate distance between the proposed structure and property lines to ensure proper maintenance and separation can occur and to provide adequate driveway clear vision. The introduction to a carport with a reduced side setback and a reduced driveway clear vision do not observe 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 variance request will injure the appropriate use of adjacent conforming properties. The reduced side setback can create additional water runoff into the neighboring front yard and will alter the essential character of the district. The reduced driveway clear vision would create a safety hazard on a residential street.

*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 as the carport can be adjusted to meet setback requirements and the front yard fence can be reduced to meet clear vision requirements.

#### **Criteria for Review – Fence Height Special Exception**

According to Section 35-482(h) of the UDC, in order for a variance to be granted, the applicant must demonstrate all of the following:

*A. The special exception will be in harmony with the spirit and purpose of the chapter.*

The UDC states the Board of Adjustment can grant a special exception for a fence height modification. The fence height being requested is 7' for the front of the yard. If granted, staff finds the request would not be in harmony with the spirit and purpose of the ordinance, as the ordinance calls for a limited height for front yard privacy fences.

*B. The public welfare and convenience will be substantially served.*

In this case, these criteria are represented by fence heights to protect property owners while still promoting a sense of community. The proposed fence does not appear to serve the public welfare, as there were no fences like the proposed design in the immediate surrounding area.

*C. The neighboring property will not be substantially injured by such proposed use.*

The fence special exception does not appear to create any additional enhanced security and privacy for the subject and adjacent properties if it does not conform to the original Unified Development Code combined fence guidelines.

*D. The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought.*

The additional fence height in the front yard appears to alter the location for which the special exception is sought, as no similar styled fences were observed to be in the immediate surrounding area.

*E. The special exception will not weaken the general purpose of the district, or the regulations herein established for the specific district.*

The requested special exception will weaken the general purpose of the district as it will introduce a front yard privacy fence exceeding the established Unified Development Code fence standards.

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

The alternative to the applicant's request is to conform to the Side Setback Regulations under Sec 35-310.01, Clear Vision Regulations of the UDC Section 35-514(a)(2) and Fence Height Regulations of the UDC Section 35-514.

#### **Staff Recommendation – Side Setback and Driveway Clear Vision Variances**

Staff recommends Denial in BOA-24-10300224 based on the following findings of fact:

1. The distance of the carport side setback is not suitable, as it does not provide adequate spacing between properties causing increased risk for fire spread and water runoff onto the neighboring property.
2. The reduced clear vision will increase safety concerns on a residential street.
2. The requests will alter the essential character of the district and will injure the appropriate use of adjacent conforming properties.

#### **Staff Recommendation – Fence Height Special Exception**

Staff recommends Denial in BOA-24-10300224 based on the following findings of fact:

1. The fence special exception will alter the essential character of the district as no other properties in the immediate area have fences exceeding the regulations of the Unified Development Code in height and privacy.
2. The request will injure the appropriate use of the surrounding properties, as it deviates from Code requirements.