



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** May 6, 2024

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

**DEPARTMENT HEAD:** Michael Shannon

**CASE NUMBER:** BOA-24-10300066

**APPLICANT:** Victor Perez

**OWNER:** Victor Perez

**COUNCIL DISTRICT IMPACTED:** District 7

**LOCATION:** 2319 Fairhill Street

**LEGAL DESCRIPTION:** Lot 22, Block 28, NCB 14522

**ZONING:** "R-5 MLOD-2 MLR-2 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

**CASE MANAGER:** Melanie Clark, Planner

**A request for**

- 1) A 9'-11" variance from the minimum 10' setback to allow a carport with a 1" front setback. Section 35-516(g)
- 2) A 5' variance from the minimum 15' clear vision to allow a 10' driveway clear vision. Section 35-514 (a)(2)

**Executive Summary**

The subject property is located to the east of Callaghan Road, south of Ingram Road, approximately 95' from the corner of Brookhill and Fairhill Street. On March 29, 2024, the applicant, being the property owner, was cited by Code Enforcement for a detached carport constructed without a permit. The applicant is requesting a 9'-11" variance to allow a detached carport to be 1" from the front property line. Additionally, during site visit, Staff found that a 5' driveway clear vision

variance is required to allow the predominately open front yard fence to remain at 10' driveway clear vision. The issuance of a building permit is pending the outcome of the Board of Adjustment.

**Code Enforcement History**

INV-PBP-24-3100001741-Investigation for Building without a permit.

**Permit History**

The applicant has not yet applied for the building permit.

**Zoning History**

The subject property was annexed into the City of San Antonio by Ordinance 18115, dated September 24, 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.

**Subject Property Zoning/Land Use**

**Existing Zoning**

"R-5 MLOD-2 MLR-2 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

**Existing Use**

Single-Family Residential

**Surrounding Property Zoning/ Land Use**

**North**

**Existing Zoning**

"R-5 MLOD-2 MLR-2 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

**Existing Use**

Single-Family Residential

**South**

**Existing Zoning**

"R-5 MLOD-2 MLR-2 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

**Existing Use**

Single-Family Residential

**East**

**Existing Zoning**

"R-5 MLOD-2 MLR-2 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

**Existing Use**

Single-Family Residential

**West**

**Existing Zoning**

“R-5 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay  
Military Lighting Region 2 Airport Hazard Overlay District

**Existing Use**

Single-Family Residential

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the West/ Southwest Sector Plan and is designated as “General Urban Tier” in the future land use component of the plan. The subject property is located within the boundary of the Culebra Park Neighborhood Association, and they have been notified of the request.

**Street Classification**

Fairhill Street is classified as a local road.

**Criteria for Review – Front Setback and Driveway Clear Vision**

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. In this case, the public interest is represented by adhering to UDC setback regulations. A 1” front setback is contrary to public interest as it does not leave enough space for city right of way and would be uncharacteristic of the surrounding area if allowed.

The public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is defined as a reduced driveway clear vision. The requested reduced driveway clear vision is not contrary to the public interest as the 10’ driveway clear vision leaves enough space for sight distance to assure vehicular traffic protection.

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

Staff does not find that a literal enforcement of the ordinance would result in unnecessary hardship as the property owner can move the carport support poles 10’ back and have an additional 5’ of overhang.

Staff has found special conditions on the property to allow a reduced clear vision as it is located on the established area fence line and would reduce the front yard.

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 detached carport does not appear to observe the spirit of the ordinance, as it is constructed to extend too close to front setback.

The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. The reduced driveway clear vision appears to observe the spirit of the ordinance as it leaves sufficient room to safely back into a local residential street.

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.*

Staff finds the reduced front setback will substantially injure the appropriate use of adjacent conforming properties or alter the essential character of the district in which the property is located, as the detached carport does not allow sufficient separation between the residence and right of way that is required in the district and exists in the surrounding area.

Staff finds the granting of the driveway clear vision variance will not substantially injure the appropriate use of adjacent conforming properties and alter the essential character of the district in which the property is located, as the location of the predominately open front yard fence and carport gate is located on the established location of the area.

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 detached carport can be removed or adjusted without causing damage to the existing property.

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, as there is adequate distance from neighboring properties and majority of the clear vision is remaining.

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

The alternative to the applicant's request is to conform to the Detached Carport Front Setback Regulations under Sec 35-516(g) and Clear Vision Regulations under Sec. 35-514 (a)(2) of the UDC.

#### **Staff Recommendation – Driveway Clear Vision Variance**

Staff recommends Approval in BOA-24-10300066 based on the following findings of fact:

1. The established clear vision of the area is at the current fence location.
2. It is not contrary to the public interest as 10' of driveway clear vision remain.

**Staff Recommendation – Front Setback Variance**

Staff recommends Denial in BOA-24-10300066 based on the following findings of fact:

1. The reduced front setback injures neighboring properties and city right of way.
2. There are no unique circumstances on the property that merit deviation from front setback as an attached carport exists on the property.
3. The essential character of the neighborhood would be altered as there are no other similar carports in the area.