



City of San Antonio

Agenda Memorandum

Agenda Date: June 17, 2024

In Control: Board of Adjustment Meeting

DEPARTMENT: Development Services Department

DEPARTMENT HEAD: Michael Shannon

CASE NUMBER: BOA-24-10300099

APPLICANT: Iliana Cortez

OWNER: Iliana Cortez

COUNCIL DISTRICT IMPACTED: District 10

LOCATION: 12606 Middle Lane

LEGAL DESCRIPTION: Lot 2, Block 3, NCB 16260

ZONING: "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District

CASE MANAGER: Melanie Clark, Planner

A request for

1) A 4' variance from the minimum 5' side setback to allow a 1' attached carport setback.
Section 35-310.01

2) A 9' variance from the minimum 10' front setback to allow an attached carport to be 1' from the front setback.
Section 35-310.01

3) A 5' variance from the minimum 15' clear vision to allow a 10' driveway clear vision.
Section 35-514(a)(2)

4) A 1' special exception from the maximum 5' height to allow a 6' predominately open front yard fence.
Section 35-514(c)(1)

5) A 3' special exception from the maximum 3' height to allow a 6' privacy front yard fence.
Section 35-514 (c)(1)

Executive Summary

The subject property is located on the northeast side, northeast of Thousand Oak Drive, northwest of Nacogdoches Road, west of Ronald Drive on Middle Lane. On April 29, 2024, Code Enforcement cited the applicant, also being the property owner, for building an attached carport without a permit. The applicant is requesting a 9' front setback variance and a 4' side setback variance to allow an attached carport to be 1' from both the front and side property line. While conducting a site visit of the property, Staff found that the front yard fence exceeded maximum fence height requirements. The applicant is seeking a 1' fence height exception for a predominately open fence as well as a 3' fence height exception for a privacy fence (west of the property) in the front yard. Additionally, the distance of the attached carport and front yard fence from the front setback requires a 5' variance to allow 10' driveway clear vision.

Code Enforcement History

INV-PBP-24-3100002300-PMT-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 41430 dated December 25, 1972, and zoned Temporary "R-1" Single-Family Residence District. The property was rezoned by Ordinance 66918 dated, April 7, 1988, from Temporary "R-1" to "R-1" Single-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned "R-1" Single-Family Residence District converted to "R-6" Residential Single-Family District.

Subject Property Zoning/Land Use

Existing Zoning

"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District

Existing Use

Single-Family Residence

Surrounding Property Zoning/ Land Use

North

Existing Zoning

"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District

Existing Use

Single-Family Residence

South

Existing Zoning

"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District

Existing Use

Single-Family Residence

East

Existing Zoning

“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District

Existing Use

Single-Family Residence

West

Existing Zoning

“R-5 AHOD” Residential Single-Family Airport Hazard Overlay District

Existing Use

Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the San Antonio International Airport Vicinity Land Use Plan and is designated as “Low Density Residential” in the future land use component of the plan. The subject property is located within the notification area of Northeast Neighborhood Alliance and have been notified of the request.

Street Classification

Middle Lane is classified as a local Road.

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 for a predominately open fence for the front of the yard and well as a 6’ privacy fence along the west side of the front yard. If granted, staff finds the request would not be in harmony with the spirit and purpose of the ordinance, as the request exceeds the maximum fence height requirements for the front yard.

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 and convenience, 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 special exception will substantially injure the neighboring properties as it will create a disproportionate fence height and composition along the front yards.

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 property line appears to alter the essential character of 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 goes against the established Unified Development Code fence standards.

Criteria for Review – Front, Side Setback and Clear Vision Variance

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 reduced setbacks are contrary to public interest as the applicant is requesting a setback variance to allow an attached carport to be 1' from the front and side setback. Staff finds this distance unsuitable as it does not leave enough space between abutting property and city right of way causing increased risk for fire spread and water runoff onto the neighboring property.

The applicant is also requesting a clear vision variance to allow a fence to be 10' from the curb. Staff finds that this request will not be contrary to the public interest as leaves adequate clear vision space to safely back into the local street.

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

A literal enforcement of the ordinance would not result in unnecessary hardship, as the structure carport can be reconstructed to meet UDC setback regulations while still protecting property owner's vehicles.

A literal enforcement of the ordinance would result in unnecessary hardship as the entire fence would have to be reconfigured to abide by the driveway clear vision.

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 reduced front and side setbacks do not appear to observe the spirit of the ordinance as distance from the right of way and the abutting property does not abide UDC carport recess standards.

The clear vision of 10' leaves sufficient room to back into a local residential street and will 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, staff finds the reduced front and side setbacks will alter the essential character of the district. The reduced front and side setbacks of the attached carport do not provide the necessary separation between the right of way and neighboring properties as is required in the district and that exists in the surrounding development.

The clear vision variance distance will be 10' from the curb. This distance of the fence is not likely to alter the essential character of the district as the property resides along a dead-end street with no through traffic.

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 variances are sought are not due to unique circumstances existing on the property as the carport can be reconstructed to meet the setback requirements of Unified Development Code.

The driveway clear vision variance is due to unique circumstances that were not created by the property owner such as the location of the fence on the lot and surrounding area.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Front and 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 – Fence Height Special Exemption

Staff recommends Denial in BOA-24-10300099 based on the following findings of fact:

1. The request 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.

Staff Recommendation – Front Setback and Side Setback Variance

Staff recommends Denial in BOA-24-10300099 based on the following findings of fact:

1. The request will alter the essential character of the district as no other properties in the immediate area have attached carports exceeding the regulations the Unified Development Code.
2. The distant of the carport from the front and side setback is not suitable, as it does not provide separation between the right of way or an adequate distance from neighboring property causing increased risk for fire spread and water runoff onto the neighboring property.

Staff Recommendation – Clear Vision Variance

Staff recommends **Approval** in **BOA-24-10300099** based on the following findings of fact:

- 1. Vehicular traffic will not be obstructed with the reduced clear vision.**
- 2. The reduced clear vision will not alter the essential character of the district.**