



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-24-10300100

APPLICANT: Priscilla Hernandez

OWNER: Priscilla Hernandez

COUNCIL DISTRICT IMPACTED: District 2

LOCATION: 126 Utah Street

LEGAL DESCRIPTION: Lot 7, Block 3, NCB 1031

ZONING: "RM-4 AHOD" Residential Mixed Airport Hazard Overlay District

CASE MANAGER: Colton Unden, Planner

A request for

1) An 9'-11" variance from the minimum 10' setback to allow a 1" carport setback.
Section 35-516(g)

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

3) A variance from the maximum 50% impervious cover in the front yard.
Section 35-515(d); Table 515-1

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

Executive Summary

The subject property is located along Utah Street, north of Aransas Avenue and east of South Pine Street, located within the Denver Heights Neighborhood Association. The structure on the lot is a recent construction, having been built in 2018 and previously vacant in the years before. The applicant initially sought the BOA for a carport variance to allow a carport to be constructed 1-inch from the setback, upon site visits and after consultation with the applicant variances regarding fence height, impervious cover, and clear vision were added.

Code Enforcement History

No relevant code enforcement history for the subject property.

Permit History

The applicant has not yet applied for the building permit.

Zoning History

The subject property was located within the original 36 square miles of the City of San Antonio and originally zoned “C” Apartment District. The property was rezoned by Ordinance 79329, dated December 16, 1993, to “R-2” Two-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “R-2” Two-Family Residence District converted to “RM-4” Residential Mixed District.

Subject Property Zoning/Land Use

Existing Zoning

“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District

Existing Use

Single-Family Dwelling

Surrounding Property Zoning/ Land Use

North

Existing Zoning

“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District

Existing Use

Single-Family Dwelling

South

Existing Zoning

“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District

Existing Use

Single-Family Dwelling

East

Existing Zoning

“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District

Existing Use

Single-Family Dwelling

West

Existing Zoning

“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District

Existing Use

Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Arena District/Eastside Community Plan and is designated as “Medium Density Residential” in the future land use component of the plan. The subject property is located within the Denver Heights Neighborhood Association, and they have been notified of the request.

Street Classification

Utah Street is classified as a Local Road.

Criteria for Review – Carport Setback, Impervious Cover, and Driveway Clear Vision 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 public interest is represented by minimum carport setback requirements between a structure and a property line as well impervious cover represented by the concreted portion of the front yard. Staff finds the reduced setback and impervious cover variances would be contrary to the public interest, as the carport would impose the risk of water runoff into the adjacent property and the impervious cover would also further exacerbate water runoff issues.

The public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by the required 15’ clear vision on a driveway. The 5’ variance would leave 10’ clear vision which will not be contrary to the public interest as it leaves suitable room for backing out into a local street.

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

Staff has found no special conditions that literal enforcement of the ordinance would cause an unnecessary hardship for the carport setback and impervious cover requested, as the carport could be built with different dimensions that comply with the UDC setback requirements. The maximum impervious cover will also permit enough space for vehicle parking on the lot.

Staff found special conditions on the subject property that would warrant the need for a reduced clear vision on the driveway. The fence line on the property and surrounding area are established and did not appear to pose a safety risk for traffic on the residential local road.

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 carport setback and impervious cover requirements is to allow adequate space between a property's structures and attempt to reduce its impact on nearby properties and to allow adequate ground space to absorb water. The spirit of the ordinance would not be observed as the modified setbacks would not leave adequate space from the right of way and insufficient space would be present for the absorption of water causing water runoff into the right of way and surrounding properties.

The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. The clear vision variance will observe the spirit of the ordinance as there remains suitable space to safely back up into a residential local 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.

If granted, the carport would be 1" from the right of way and impervious cover would exceed 50%, which is not in conformity with the guidelines established. While there are other carports in the area that appear to be within the front setback, no variances were found granting any exceptions. Furthermore, no properties in the immediate area appeared to be in excess of impervious cover regulations.

The clear vision variance will not alter the essential character of the district as sufficient space will be present to see oncoming traffic and the variance is not out of character for the area in which it is requested.

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. The property owner has not yet constructed the carport and can modify plans to provide compliance and some of the excessive concreted portion of the front yard can be restored back to the original ground to provide compliance.

Staff finds the plight of the owner of the property for which the clear vision variance is sought is due to unique circumstances existing on the property. The closeness of homes and adjacent

structures on immediate lots nearby warrant the need to extend fencing slightly beyond the clear vision regulations.

Criteria for Review – Fence Height Special Exception

According to Section 35-482(h) of the UDC, 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 a 6' privacy fence 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 request exceeds the maximum height requirements for a privacy fence in 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 privacy 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 fence variance 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 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 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 goes against the established Unified Development Code fence standards.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Carport Setback Regulations of Section 35-516(g), Fence Height Regulations of Section 35-514, Impervious Cover Regulations of Section 35-515(d), and Clear Vision Regulations of Section 35-514(a)(2) of the Unified Development Code.

Staff Recommendation – Carport Setback and Impervious Cover Variances

Staff recommends Denial in BOA-24-10300100 based on the following findings of fact:

1. The requests will aggravate water runoff and absorption issues for the property, adjacent properties, and right-of-way.
2. The requests will alter the essential character of the neighborhood.

Staff Recommendation – Fence Height Special Exception

Staff recommends Denial in BOA-24-10300100 based on the following findings of fact:

1. The requests will alter the essential character of the neighborhood.
2. No other similar fence height in the front yard was seen in the immediate area.

Staff Recommendation – Driveway Clear Vision Variance

Staff recommends Approval in BOA-24-10300100 based on the following findings of fact:

1. Suitable clear vision space will remain to safely back up into a residential local street.
2. The fence line is located in the established distance in the surrounding area.