



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** May 20, 2024

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

**DEPARTMENT HEAD:** Michael Shannon

**CASE NUMBER:** BOA-24-10300070

**APPLICANT:** Virginia Salinas

**OWNER:** Virginia Salinas

**COUNCIL DISTRICT IMPACTED:** District 1

**LOCATION:** 138 Marlena Drive

**LEGAL DESCRIPTION:** Lot 10, Block 61, NCB 10590

**ZONING:** "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District

**CASE MANAGER:** Colton Unden, Planner

**A request for**

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

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

**Executive Summary**

The subject property is located along Marlena Drive, south of Northwest Loop 410 and West of Vance Jackson Road. The applicant has an existing carport attached to the home they are seeking to expand into the side setback. The applicant has additionally stated a desire to maintain the slope of roofing and continue the current style of the carport with the addition if approved. Upon site visits, staff noticed 6' privacy fencing extending past the front façade of the home and included it

in the request after discussing with the applicant. The approximate distance from the front façade to the front property line is 37-feet.

### **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 annexed into the City of San Antonio by Ordinance 18115, dated September 24, 1952, and originally zoned “B” Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “B” Residence District converted to the current “R-4” Residential Single-Family District.

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

#### **Existing Zoning**

“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District

#### **Existing Use**

Single-Family Dwelling

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

#### **North**

#### **Existing Zoning**

“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District

#### **Existing Use**

Single-Family Dwelling

#### **South**

#### **Existing Zoning**

“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District

#### **Existing Use**

Single-Family Dwelling

#### **East**

#### **Existing Zoning**

“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District

#### **Existing Use**

Single-Family Dwelling

#### **West**

#### **Existing Zoning**

“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District

#### **Existing Use**

Single-Family Dwelling

### **Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Greater Dellview Area Community Plan 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 Neighborhood Association.

### **Street Classification**

Marlena Drive is classified as a Local Road.

### **Criteria for Review – Side Setback 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. In this case, the public interest is represented by setback requirements to prevent storm water runoff and routine maintenance without trespass. The applicant is requesting a variance to the side setback to allow a carport to be 1” from the property line. This distance does not provide adequate spacing between properties, and may impose water run off on the adjacent property which are both contrary to the public interest.

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

Staff was unable to establish any special conditions on the subject property to warrant the need for a reduced side setback. A literal enforcement of the ordinance would not result in an unnecessary hardship, as the applicant could alter the carport to abide by the minimum distance required.

- 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 granting of this variance will not observe the spirit of the ordinance, as the carport is too close the abutting property and water runoff may impose onto the adjacent property.

- 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 will be 1” from the side property line. This will injure the appropriate use of adjacent conforming properties. While staff does recognize other carports were seen in the immediate area, primarily because they are non-conforming, the requests cannot be supported.

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. The carport expansion has not yet been constructed and the applicant may alter their plans for compliance.

### **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. If granted the special exception is not contrary to the spirit and purpose of the chapter as it will be limited to no more than 20 feet past the front façade.

- 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 will add to the protection of the property and add to the sense of security in the area.

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

The proposed 6 feet privacy fence within 20 feet of the front façade would be along Marlina Drive and would not injure neighboring properties as the fence does not obstruct the line of sight for oncoming vehicles.

- 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.*

Upon inspection of the district and location, the fence at its proposed design will not alter the essential characteristics of the district.

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

If granted, the special exception will not alter the general purpose of the district, or the regulations herein established for the specific district. The proposed fence exceeds the height regulations by 3-feet and will enhance the security of the property.

**Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the Side Setback Regulations of Section 35-310.01 and the Fence Height Regulations of Section 35-514 of the Unified Development Code.

**Staff Recommendation – Side Setback Variance**

Staff recommends Denial in BOA-24-10300070 based on the following findings of fact:

1. The distance does not provide adequate spacing between properties, and water run off may impose on to the adjacent property.

**Staff Recommendation – Fence Height Special Exception**

Staff recommends Approval in BOA-24-10300070, limited to 20' from the front façade, based on the following findings of fact:

1. By being limited to no more than 20 feet from the front façade of the home, the fence will not obstruct line of sight for oncoming and exiting vehicles.
2. The fence does not injure the essential character of the neighborhood.