



City of San Antonio

Agenda Memorandum

Agenda Date: August 19, 2024

In Control: Board of Adjustment Meeting

DEPARTMENT: Development Services Department

DEPARTMENT HEAD: Amin Tohmaz, Interim Department Head

CASE NUMBER: BOA-24-10300128

APPLICANT: Guadalupe Ibarra

OWNER: Guadalupe Ibarra

COUNCIL DISTRICT IMPACTED: District 3

LOCATION: 2918 Linn Road

LEGAL DESCRIPTION: Lot 5, Block 4, NCB 12758

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

CASE MANAGER: Melanie Clark, Planner

A request for

1) A 7' variance from the minimum 10' front setback to allow a 3' front carport setback.

Section 35-310.01

2) A 4' variance from the minimum 5' side setback to allow a 1' carport side 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)

Executive Summary

The subject property is located south of Interstate 87 situated between Pecan Valley Drive and S. E. Military Drive, approximately 265' east of Quig Road and Linn Road Intersection. On August 30, 2022, Code Enforcement received a Citizen Call regarding a newly constructed carport on the

subject property. During investigation, Code Enforcement determined that the carport was built without a permit. The investigation further determined that the carport did not comply with UDC setback regulations. The property owner applied for a Building Permit December 19, 2022, however, Officer's notes from February 15, 2023, reflect that Permit Department deemed the permit invalid due to carport not being built to site plan specifications. Records indicate that Code Enforcement routinely reinspected and issued multiple citations regarding the carport on the property since October 2022 until June 28, 2024, when the property owner applied for Board of Adjustment. The property owner is requesting a 7' front setback and a 4' side setback to allow the carport to remain 3' from the front setback and 1' side setback. Additionally, Staff found that a front yard fence/sliding gate had also be installed without a permit and requires a 5' variance to allow a 10' driveway clear vision.

Code Enforcement History

COD-ADH-REQ24-43901456- Administrative Hearing
COD-ADH-REQ24-43901457- Administrative Hearing
COD-ADH-REQ23-43900173- Administrative Hearing
COD-ADH-REQ23-43900175- Administrative Hearing
INV-PBP-22-3100003554 – Permit Investigation
INV-ZPS-22-3160002219 – Zoning UDC Investigation

Permit History

RES-CRT-PMT22-32202139- Carport Permit (Inactive)
RES-IMP-APP22-32002139- Residential Improvements Permit Application

Zoning History

The subject property was annexed into the City of San Antonio by Ordinance 18115 dated, September 24, 1952, and zoned "B" Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property converted from "B" Residence District to "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 Residence

Surrounding Property Zoning/ Land Use

North

Existing Zoning

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

Existing Use

Single-Family Residence

South

Existing Zoning

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

Existing Use

Single-Family Residence

East**Existing Zoning**

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

Existing Use

Single-Family Residence

West**Existing Zoning**

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

Existing Use

Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Brooks Regional Center Area 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 the Highland Hills Neighborhood Association, and they have been notified of the request.

Street Classification

Linn Road is classified as a local road.

Criteria for Review –Front Setback, Side Setback and Driveway 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. In this case, the public interest is represented by adhering to UDC setback and clear vision regulations. In this case, the driveway clear vision variance does not appear to be contrary to the public interest. The reduced 10’ driveway clear vision leaves enough space for sight distance to assure vehicular traffic protection. The variance would not be uncharacteristic of the surrounding area if allowed.

The 3’ front setback and 1’ side setback appears to be contrary to the public interest. The reduced setbacks do not leave enough room between the structure, city right of way and neighboring property. While other reduced front and side setback carports exist in the area, no variances were historically approved by the Board of Adjustment.

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

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

A literal enforcement of the ordinance would not result in an unnecessary hardship as the property owner can have the carport support poles and overhang adjusted to meet UDC setback regulations.

3. By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.

The variance to the clear vision appears to observe the spirit of the ordinance, as it will leave room for safe visibility for oncoming vehicles and will not injure the neighboring properties.

The intent of the code is to provide distance between the proposed structure and property lines to ensure proper maintenance and separation can occur. The carport with a significantly reduced front and side setback will 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.

Staff finds the driveway clear vision will not alter the essential character of the district, as the fence location leaves sufficient room for public right-of-way to allow vehicles to safely back onto a residential street.

Staff finds the reduced front and side setbacks will alter the essential character of the district as the carport setbacks do not provide adequate distance for city right-of-way or from the property line causing increased risk for fire spread and water runoff onto the neighboring property.

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 clear vision variance is sought is due to unique circumstances which were not created by the owner of the property, as the fence location leaves sufficient room for public right-of-way and to safely back onto a residential street.

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.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the setback regulations of the UDC Section 35-310.01 and the clear vision Section 35-514 (a)(2).

Staff Recommendation –Driveway Clear Vision Variance

Staff recommends Approval in BOA-24-10300128 based on the following findings of fact:

1. The reduced driveway clear vision variance will not alter the essential character of the district in which the property is located as similar properties could be seen in the area.
2. The fence location leaves sufficient room for public right-of-way and to safely back onto a residential street.

Staff Recommendation – Front Setback and Side Setback Variance

Staff recommends Denial in BOA-24-10300128 based on the following findings of fact:

1. The carport front setback will alter the essential character of the district as it does not leave sufficient room for public right-of -way.
2. The carport reduced side setback does not provide adequate distance from the established property line, causing increased risk of fire spread and water runoff onto the neighboring property.