



City of San Antonio

Agenda Memorandum

Agenda Date: January 27, 2025

In Control: Board of Adjustment Meeting

DEPARTMENT: Development Services Department

DEPARTMENT HEAD: Amin Tohmaz, Interim Department Head

CASE NUMBER: BOA-24-10300253

APPLICANT: Pamela Ann Almazon

OWNER: Pamela Ann Almazon

COUNCIL DISTRICT IMPACTED: District 5

LOCATION: 303 Rosa Verde

LEGAL DESCRIPTION: Lot 22, Block 7, NCB 307

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

CASE MANAGER: Colton Unden, Planner

A request for

1) A 3' special exception from the maximum 3' fence height to allow a 6' privacy fence height in the front yard.

Section 35-514

2) A 1' variance from the minimum 15' driveway clear vision to allow a 14' driveway clear vision.
Section 35-514 (a)(2)

3) A 4' variance from the minimum 5' side setback to allow a carport with a 1' side setback.
Section 35-370(b)(1)

4) An 8' variance from the minimum 10' front setback to allow a carport with a 2' front setback.
Section 35-516(g)

Executive Summary

The subject property is located along Rosa Verde, west of IH-10, located within the Historic Westside Residents Neighborhood Association. The applicant applied for a fence permit with the specifications of a 5ft tall front breeze block masonry fence in August 2024. The application states that 5' combined or predominately open fence is permitted in the front yard. On site visits, the applicant stated they had confusion over the definition of combined or predominantly open. The city has identified it as a privacy fence, not meeting both criteria. Upon site visits, the fence was measured at 5'-4" and the front gate was measured at 6' – higher than specified in the application. Furthermore, staff identified the carport and driveway clear vision in need of variances and added it after consulting with the applicant. Code Enforcement issued a notice in October 2024 to comply or start a variance process.

Code Enforcement History

INV-PBP-24-3100005949 - PMT-Building Without A Permit – Pending Resolution
INV-ZLT-24-3150000060 - Zoning – Lighting – Closed

Permit History

RES-FEN-PMT24-31901006 - 303 Rosa Verde – Fence Permit
REP-MBR-APP21-35011332 – Minor Building Repair Permit

Zoning History

The subject property was located within the original 36 square miles of the City of San Antonio and zoned “K” Commercial District. The property was rezoned by Ordinance 62039 dated December 19, 1985, from “K” Commercial District to “R-7” Small Lot Home District. With the adoption of the 2001 Unified Development Code, established by Ordinance 93881, on May 3, 2001, the zoning converted from “R-7” Small Lot Home District 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
UZROW
Existing Use
IH-10

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 located within the Downtown Area Regional Center Plan and is designated as “Urban Low Density Residential” in the future land use component of the plan. The subject property is located within the Historic Westside Residents Neighborhood Association and within the notification area of the San Antonio Texas District One Resident Association and they have been notified of this request.

Street Classification

Rosa Verde Street is classified as a Local Road.

Criteria for Review – Driveway Clear Vision, Side and Front Carport Setback 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. In this case, the public interest is represented by adhering to driveway clear vision, side and front carport setback requirements for water runoff, fire safety, and driveway safety concerns. The side and front carport setback variances are contrary to the public interest as insufficient space will remain for the purposes of fire safety and water runoff concerns.

The driveway clear vision variance is not contrary to the public interest as the fence and gate are located within an established fence and gate line in the neighborhood in which it is requested.

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

A literal enforcement of the carport side and front setback ordinances would not result in unnecessary hardship as the applicant is able to relocate or modify the carport.

A literal enforcement of the driveway clear vision ordinances would result in unnecessary hardship as the applicant has constructed the fence and gate already well within an established fence and gate line within the neighborhood.

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

The requested carport side and front setback variances does not appear to be in the spirit of the ordinance as insufficient space will remain for the purposes of water runoff and fire safety. Furthermore, no carport was immediately observed to be as within the setbacks.

The requested driveway clear vision variance does appear to be in the spirit of the ordinance as sufficient space will remain for the purposes of backing into and from the local residential road. Furthermore, the fence and gate are in a well-established line in the neighborhood.

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 that the carport front and side setback variances would substantially injure the appropriate use of adjacent properties as insufficient space will remain for the purposes of water runoff and fire safety. Additionally, no other carports were seen in the immediate area to be this far within front and side setbacks.

Staff finds that the driveway clear vision variance would not substantially injure the appropriate use of adjacent properties as sufficient space will remain for the purposes of backing into and from the local residential road. Furthermore, the fence and gate are in a well-established line in the neighborhood.

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 does not find any unique circumstances existing on the property for the carport front and side setbacks. No other carport was seen in the immediate area to be in violation of front and side setbacks and the carport can be relocated or modified to be in compliance with setbacks.

Staff finds the unique circumstances existing on the property for the driveway clear vision variance is the presence of a well-established fence and gate line within the neighborhood.

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 6' 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 ordinance calls for a limited height for front yard privacy fences.

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, 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 special exception 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 combined 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 in the front yard 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 will introduce a front yard privacy fence exceeding the established Unified Development Code fence standards.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the fence height, driveway clear vision, carport side setback, and carport front setback requirements of the UDC Sections Section 35-514, 35-514 (a)(2), 35-370(b)(1), Section 35-516(g).

Staff Recommendation – Side and Front Carport Setback Variances

Staff recommends Denial in BOA-24-10300253 based on the following findings of fact:

1. Insufficient space will remain for the purposes of water runoff and fire safety.
2. The requested variances will alter the essential characteristics of the district in which the property is located.

Staff Recommendation – Driveway Clear Vision Variance

Staff recommends Approval in BOA-24-10300253 based on the following findings of fact:

1. The fence and gate are located well within an established fence and gate line within the neighborhood and sufficient space remains to safely back from and on to a local residential road.
2. The requested variances will not alter the essential characteristics of the district in which the property is located.

Staff Recommendation – Fence Height Special Exception

Staff recommends Denial in BOA-24-10300253 based on the following findings of fact:

1. The fence special exception does not appear to create any additional enhanced security and privacy.
2. The requested variances will alter the essential characteristics of the district in which the property is located.