



City of San Antonio

Agenda Memorandum

Agenda Date: July 1, 2024

In Control: Board of Adjustment Meeting

DEPARTMENT: Development Services Department

DEPARTMENT HEAD: Michael Shannon

CASE NUMBER: BOA-24-10300104

APPLICANT: Concepcion Robles

OWNER: Concepcion Robles

COUNCIL DISTRICT IMPACTED: District 5

LOCATION: 506 Chalmers Avenue

LEGAL DESCRIPTION: East 50 feet of west 100 feet of north 172 feet of Lot 21, NCB 7903

ZONING: "R-6 MLOD-2 MLR-2 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

CASE MANAGER: Colton Unden, Planner

A request for

1) A 4'-11" variance from the minimum 5' side setback requirement to allow an attached carport to be 1" from the side setback to include a 1' overhang.
Section 35-310.01.

2) A 6'-6" variance from the minimum 15' clear vision to allow a 8'-6" driveway clear vision.
Section 35-514(a)(2).

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

Executive Summary

The subject property is located along Chalmers Avenue, south of Division Avenue, located within the St. Leo's Neighborhood Association. The applicant was issued a notice of violation on May 21, 2024 for constructing a carport and fence without a permit. A day after the notice, the applicant submitted a fence permit application listing 5 feet in height, upon site visits it was found the highest point was roughly 6 feet and that height was added to the requests along with a clear vision variance due to the location of the fence gate. With regards to the carport, staff found it was constructed within an inch of the property line.

Code Enforcement History

INV-PBP-24-3100002843 PMT–Building Without A Permit (05/21/2024)

INV-ZPS-24-3160001481 Zoning–Property Setback (05/21/2024)

INV-PBP-24-3100002799 PMT–Building Without A Permit (05/20/2024)

Permit History

RES-FEN-PMT24-31900651 Fence Permit (05/22/2024)

The issuance of further build permits is pending Board of Adjustment outcome.

Zoning History

The subject property was annexed into the City of San Antonio by Ordinance 1391, dated September 22, 1944, and originally zoned “B” Residence District. The property was rezoned by Ordinance 85,113, dated November 7, 1996, 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-6 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay
Military Lighting Region 2 Airport Hazard Overlay District

Existing Use

Single-Family Dwelling

Surrounding Property Zoning/ Land Use

North

Existing Zoning

“R-6 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay
Military Lighting Region 2 Airport Hazard Overlay District

Existing Use

Single-Family Dwelling

South

Existing Zoning

“R-6 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay
Military Lighting Region 2 Airport Hazard Overlay District

Existing Use

Single-Family Dwelling

East

Existing Zoning

“R-6 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay
Military Lighting Region 2 Airport Hazard Overlay District

Existing Use

Single-Family Dwelling

West

Existing Zoning

“R-6 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay
Military Lighting Region 2 Airport Hazard Overlay District

Existing Use

Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the South Central San Antonio Community Plan and is designated as “Low Density Residential” in the future land use component of the plan. The subject property is located within the St. Leos Neighborhood Association, and they have been notified of the request.

Street Classification

Chalmers Avenue is classified as a Local Road.

Criteria for Review – Side Setback 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.

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 water run off may impose on the adjacent property, which are both contrary to the public interest.

In this case, the clear vision request is not contrary to the public interest as the fencing and gate line distance is established in the community and adequate spacing exists for the purpose of safely backing from and on to the residential local road.

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

Staff found no special conditions existing on the subject property that would warrant the need for the side setback variance requested.

Staff found the special conditions existing on the subject property that would warrant the need for a reduced driveway clear vision exist such as the established distance of front yard fencing in the community.

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.

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 observe the spirit of the ordinance, as adequate driveway clear vision remains to safely back from and on to the local residential road.

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 that were encroaching into the side setback, primarily because they are non-conforming, the request cannot be supported.

If granted, driveway clear vision will be 8'-6". This will not injure the appropriate use of adjacent conforming properties as adequate spacing will remain to safely back from and on to the local residential road.

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 side setback variance are sought is not due to unique circumstances existing on the property.

Staff finds the plight of the owner of the property for which the clear vision variance are sought is due to unique circumstances existing on the property such as the established distance of front yard fencing and gates in the community.

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 privacy fence does not appear to serve the public welfare and convenience, as there are no special circumstances to warrant the need to exceed the height limitations of the Unified Development Code.

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 Lot and Building Dimension Regulations of Section 35-310.01, Clear Vision Regulations of Section 35-514(a)(2) as well as Fence Height Regulations of Section 35-514 of the Unified Development Code.

Staff Recommendation – Side Setback Variance

Staff recommends Denial in BOA-24-10300104 based on the following findings of fact:

1. The requests will alter the essential character of the neighborhood.
2. The reduced side setback will pose water run off issues and increased risk for fire spreading.

Staff Recommendation – Driveway Clear Vision Variance

Staff recommends Approval in BOA-24-10300104 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.

Staff Recommendation – Fence Height Special Exception

Staff recommends Denial in BOA-24-10300104 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.