City of San Antonio

Agenda Memorandum

Agenda Date: September 9, 2024

In Control: Board of Adjustment Meeting

DEPARTMENT: Development Services Department

DEPARTMENT HEAD: Amin Tohmaz, Interim Department Head

CASE NUMBER: BOA-24-10300120

APPLICANT: Jaime Soza

OWNER: Jaime Soza

COUNCIL DISTRICT IMPACTED: District 7

LOCATION: 3550 West Woodlawn Avenue

LEGAL DESCRIPTION: Lot 38, Block 9, NCB 9653

ZONING: "R-5 MLOD-2 MLR-2 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

CASE MANAGER: Melanie Clark, Planner

A request for

1) A 4'-11" variance from the minimum 5' side setback to allow a detached carport to be 1" from the east and west side property lines.
Section 35-516

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

3) A 5' variance from the minimum 15' clear vision requirement to allow a fence to be 10' from the curb.
Section 35-514

4) A variance from the maximum 50% impervious cover requirement to allow the front yard to exceed the maximum 50% impervious cover.
Section 35-515

Executive Summary
The subject property is located within the Woodlawn Heights community, east of Hillcrest Drive situated on West Woodlawn Avenue. The applicant, being the property owner, is proposing construction of a crescent-shaped detached carport and a sliding access gate for the front of the property. The applicant is requesting 4'-11" side setback variance to allow the detached carport to be 1" from the east and west side property lines as well as a 3' fence height exemption to allow a 6' privacy gate along the front yard. The proposed location of the sliding gate will require a 5' clear vision to allow the gate entrance to be 10' from the curb. Additionally, during site visits, Staff found that an impervious cover variance is required due to the property exceeding the maximum 50% impervious cover on a residential property. Staff found a driveway permit was applied for in 2014, however never finalized or inspected. Permit is pending decision of the Board of Adjustment.

Code Enforcement History
No Code Enforcement history found.

Permit History
RES-FEN-APP24-31800728-Residential Fence Permit Application

Zoning History
The property was annexed into the City of San Antonio by Ordinance 9171, dated March 16, 1949, and zoned as a "A" Single-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned "A" Single-Family Residential converted to the current "R-5" Residential Single-Family District.

Subject Property Zoning/Land Use
Existing Zoning
"R-5 MLOD-2 MLR-2 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Existing Use
Single-Family Residence

Surrounding Property Zoning/ Land Use
North
Existing Zoning
"R-5 MLOD-2 MLR-2 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Existing Use
Single-Family Residence

South
Existing Zoning

"R-5 MLOD-2 MLR-2 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Existing Use
Single-Family Residence

East
Existing Zoning
"R-5 MLOD-2 MLR-2 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Existing Use
Single-Family Residence

West
Existing Zoning
"R-5 MLOD-2 MLR-2 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Existing Use
Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association
The subject property is in the West/Southwest Sector Plan and is designated as "General Urban Tier" in the future land use component of the plan. The subject property is located within the notification area of University Park Neighborhood Association, and they have been notified of the request.

Street Classification
West Woodlawn is classified as a local road.

Criteria for Review – Side Setback, Clear Vision and Impervious Cover 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 the maximum impervious surface requirements to prevent excessive surface water and pollutant runoff as well as minimum setback requirements for adequate spacing between properties. The carport and impervious surface are contrary, as it will injure neighboring properties by creating disproportionate distance between properties and severely reducing permeable surface area, increasing risk of excessive water runoff onto adjacent properties and right-of-way.

The applicant is also requesting a clear vision variance to allow a fence to be 10' from the curb. Staff finds that this request will not be contrary to the public interest as this is an acceptable distance from the right of way and aligns with existing fences of neighboring properties.

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

Staff did not find any special conditions on the subject property that would result in unnecessary hardship as there is adequate space on the property to meet minimum setback requirements or warrant exceeding the 50% maximum impervious surface area coverage area of the property.

A literal enforcement of the ordinance would result in the applicant altering the fence to meet the minimum 15' clear vision requirement for the driveway. This would result in an unnecessary hardship as the fence is existing and there is limited spacing in the front yard to comply with the requirement.

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 the side setback and impervious cover variances do not observe the spirit of the ordinance, as there are no similarly designed carports or yards observed in the surrounding area.

The clear vision request to allow a fence to be 10' from the curb will observe the spirit of the ordinance by providing a safe distance between the two points, allowing vehicular traffic to not be obstructed.

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.

A detached carport in the front yard 1" from the east and west side property lines, along with the proposed crescent-shape design and maximum impervious coverage existing on the property, appears out of character with the district as no other similarly designed properties were found in the area. If granted, the variances may injure the adjacent properties, as the reduced seatbacks limit access to for preventative maintenance of the structure and disproportionate impervious coverage hinders water drainage, increasing water runoff onto neighboring lots.

If granted, the clear vision distance will be 10' from the curb. This distance of the fence is not likely to alter the essential character of the district as other fences in the area were observed.

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 as there is reasonable space on the property to construct a detached carport to meet the setback minimums. Incorporating permeable materials in the front yard to help reduce exceeding impervious surface allowances.

The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, such as having a small front yard and the alignment of neighboring fences within the area.

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 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 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 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 special exception will substantially injure the neighboring properties as it will create a disproportionate fence height and composition along the front yards.

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 property line 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 found in Sections 35-516, the fence height and clear vision requirements in Section 35-514, and the impervious surface regulations in Section 35-515 of the Unified Development Code.

Staff Recommendation – Side Setback and Impervious Cover Variance
Staff recommends Denial in BOA-24-10300120 based on the following findings of fact:

1. Reduced side setbacks will injure neighboring properties by creating an unsafe and disproportionate distance between properties.
2. The impervious cover variance would severely reduce the property's permeable surface area, increasing risk of excessive water runoff onto adjacent properties and right-of-way.

Staff Recommendation – Clear Vision Variance
Staff recommends Approval in BOA-24-10300120 based on the following findings of fact:

1. Vehicular traffic will not be obstructed with the reduced clear vision; and,
2. The reduced clear vision will not alter the essential character of the district.

Staff Recommendation – Fence Height Exemption
Staff recommends Denial in BOA-24-10300120 based on the following findings of fact:

1. The request will alter the essential character of the district as no other properties in the immediate area have fences exceeding the regulations of the Unified Development Code in height and privacy.
2. The request will injure the appropriate use of the surrounding properties.