



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** July 1, 2024

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

**DEPARTMENT HEAD:** Michael Shannon

**CASE NUMBER:** BOA-24-10300110

**APPLICANT:** Alberto Galarza

**OWNER:** Alberto Galarza

**COUNCIL DISTRICT IMPACTED:** District 2

**LOCATION:** 4835 Castle Pine Street

**LEGAL DESCRIPTION:** Lot 90, Block 18, NCB 17733

**ZONING:** “R-6 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay Hazard

**CASE MANAGER:** Colton Unden, Planner

**A request for**

1) A variance from the fence materials to allow for a corrugated metal fence on the property.  
Section 35-514 (a)(6)

2) A 4'-11” variance from the minimum 5' rear setback to allow an accessory structure to be 1” from the rear property line.  
Section 35-370(b)(1)

3) A 2'-6” variance from the minimum 5' side setback to allow an accessory structure to be 2'-6” from the side property line.  
Section 35-370(b)(1)

4) A 4'-11" and 4' variance from the minimum 5' side setback to allow two carports to be 1" and 1' from the side property line.  
Section 35-370(b)(1)

**Executive Summary**

The subject property is located along Castle Pine Street, north of Rittiman Road. The applicant originally applied for the Board of Adjustment for corrugated metal fencing in the side and rear of the property. Because of a qualifying pool in the backyard, the applicant is allowed 8 feet side and rear fencing. Code enforcement issued a notice in March 2024 for a front carport constructed without a permit, the carport was constructed 1" from the side property line, a carport in the back is also within 1-foot of the property line. Upon site visits, the applicant showed staff an existing structure in the backyard they stated was already constructed when they bought the property that encroached into the side and rear setbacks.

**Code Enforcement History**

INV-PBP-24-3100001381 PMT–Building Without a Permit (03/13/2024)

**Permit History**

RES-FEN-PMT24-31900249-Fence Permit (03/05/2024)

The issuance of a build permit is pending Board of Adjustment outcome.

**Zoning History**

The subject property was annexed into the City of San Antonio by Ordinance 64023, dated December 28, 1986, and originally zoned “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-3 MLR-2 AHOD” Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay Hazard

**Existing Use**

Single-Family Dwelling

**Surrounding Property Zoning/ Land Use**

**North**

**Existing Zoning**

“R-6 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay Hazard

**Existing Use**

Single-Family Dwelling

**South**

**Existing Zoning**

“R-6 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay Hazard

**Existing Use**

Single-Family Dwelling

**East**

**Existing Zoning**

“R-6 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay Hazard

**Existing Use**

Single-Family Dwelling

**West**

**Existing Zoning**

“R-6 MLOD-3 MLR-2 AHOD” Residential Single-Family Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay Hazard

**Existing Use**

Single-Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is not located within any future land use plans. The subject property is located within the East Village Neighborhood Association, and they have been notified of this request.

**Street Classification**

Castle Pine Street is classified as a Local Road.

**Criteria for Review – Corrugated Fence Material, Side and Rear Setbacks for an Accessory Structure, and Carport Side 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.*

In this case, the public interest is represented by setback requirements to prevent storm water runoff and routine maintenance without trespass as well as fence material regulations. The applicant is requesting a variance to the side setback to allow a carport to be 1” and 1’ from the side property line and an accessory structure and rear carport to be 1” from the rear 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. Furthermore, the applicant is requesting a variance to allow corrugated fence material. Corrugated fence material is not permitted in the City of San Antonio per the Unified Development Code.

- 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 and fence materials variances requested.

*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 and accessory structure are too close the abutting property and water runoff and fire spreading risks may impose onto the adjacent properties.

*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” and 1’ from the side property line and the accessory structure and rear carport within 1” from the rear. 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 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 setback and fence material variances are sought are not due to unique circumstances existing on the property.

#### **Alternative to Applicant’s Request**

The alternative to the applicant’s request is to conform to the Fence Material Regulations of Section 35-514 (a)(6) and the Setback Regulations of Section 35-370(b)(1) of the Unified Development Code.

#### **Staff Recommendation – Corrugated Fence Material, Side and Rear Accessory Structure and Carport Setback Variances**

Staff recommends Denial in BOA-24-10300110 based on the following findings of fact:

1. The reduced setbacks will aggravate water runoff and pose additional fire safety issues.
2. There is no special circumstances existing on the property to warrant a need for a prohibited fence material.
3. The requests will alter the essential character of the neighborhood.