

Case Number:	BOA-22-10300175
Applicant:	Sean Oslin
Owner:	Oslin Sean Whiteside
Council District:	2
Location:	126 Kansas Street
Legal Description:	Lot 7, Block 2, NCB 609
Zoning:	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District
Case Manager:	Richard Bautista-Vazquez, Planner

Request

A request for 1) a 4'-6" variance from the minimum 5' side setback requirement, as described in Sec 35-370(b)(1), to allow a carport to be 6" from the side property line, and 2) a request for a 2' special exemption from the 6' maximum fence height, as described in Sec 35-514, to allow an 8' solid screen fence in the side and rear yard.

Executive Summary

The subject property is located on Kansas Street and is currently has a single-family home on the lot. The applicant is proposing a carport to be 6" from the side property line. The applicant has applied for the variance prior to commencing the construction of the structure. The carport length is going to be 11' "2 and the width is going to be 9' 11". Upon staff site visit an 8' fence was observed along the side and rear property lines. Staff observed other similar styled fences in the area.

Code Enforcement History

There are no code violations for this property.

Permit History

Foundation Repair Permit 12/21/2020

The permit for the structure is pending the outcome of the Board of Adjustment Hearing.

Zoning History

The subject property was part of the original 36 square miles of the City of San Antonio and zoned "B" Residence District. Ordinance 79329 dated December 16, 1993 rezoned the property to "R-2" Two-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property converted to "RM-4" Residential Mixed District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling
South	“C-3NA AHOD” General Commercial Nonalcoholic Sales Airport Hazard Overlay District	Office Building
East	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling
West	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Downtown Neighborhood Plan and is designated as “Residential” in the future land use component of the plan. The subject property is within the Alamodome Gardens and Denver Heights Neighborhood Associations and were notified of the case.

Street Classification

Kansas Street is classified as a local roads.

Criteria for Review – Side Setback 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 variance to the side setback is to allow a structure to be 6” from the side property line. The structure will meet the front setback requirement but does appear to be contrary to the public interest.

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

Staff finds no hardship on the lot as there is adequate space to meet the minimum side setback requirement for the carport.

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

The structures have not been constructed and the proposed setback is 6” from the side property line. The spirit of the ordinance will not be observed as there may possible water runoff between the structure and neighboring 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.*

Staff finds evidence that the requested variance would alter the essential character of the district as there is no similar carports in the immediate area.

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.*

Because of the width of the lot and configuration of the existing residence, maintaining a 6” side setback is not appropriate for the area. The request is not merely financial.

Criteria for Review – Fence Height

According to Section 35-482(h) of the UDC, in order for a special exception to be granted, the Board of Adjustment must find that the request meets each of the five following conditions:

- 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 additional fence height was observed upon the site visit and, if granted, staff finds the request would be in harmony with the spirit and purpose of the ordinance.

- B. The public welfare and convenience will be substantially served.*

In this case, these criteria are represented by fence heights to protect residential property owners while still promoting a sense of community. The fence is located along the side and rear property and is exceeding the maximum height requirement by 2’. The fence is solid screened would serve the public welfare and convenience.

- C. The neighboring property will not be substantially injured by such proposed use.*

The fence will create enhanced security and privacy for the subject property but it is unlikely to substantially injure any neighboring properties.

- 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 height for the section of side and rear yard fence will not alter the essential character of the district as there were other similar fence heights in the area.

E. The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district.

The current zoning permits the current use of a single-family home. The requested special exception will not weaken the general purpose of the district.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the setback requirements of the UDC Section 35-370(b)(1) and Fence Height requirements of Section 35-514 of the UDC.

Staff Recommendation – Side Setback Variance

Staff recommends Denial in **BOA-22-10300175** based on the following findings of fact:

1. There is adequate space to conform to the side setback requirements; and
2. There is possible water runoff to the neighboring properties.

Staff Recommendation – Side and Rear Fence Special Exception

Staff recommends **Approval** in **BOA-22-10300175** based on the following findings of fact:

1. The side and rear yard fence does not appear to alter the essential character of the district;
and
2. The fence will provide additional security for the homeowner.