

Case Number:	BOA-22-10300229
Applicant:	Gail Wise
Owner:	Gail Wise
Council District:	1
Location:	470 Sharon Drive
Legal Description:	Lot 18, Block 7, NCB 12015
Zoning:	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager:	Joseph Leos, Planner

Request

A request for 1) a 2'-4" variance from the 6' side yard fence height, as described in Section 35-514, to allow an 8'-4" fence in the side yard, 2) a 9" variance from the minimum 5' side setback requirement, as described in Section 35-310.01, to allow an attached carport with overhang to be 4'-3" from the side property line, and 3) a variance from the maximum 50% impervious cover requirement, as described in Section 35-515(d), to allow the front yard to exceed the 50% impervious cover.

Executive Summary

The subject property is located along Sharon Drive near the intersection of Jones Maltsberger and U.S. Highway 281 North. There is an existing single-family dwelling on the property and the applicant constructed an 8'-4" fence in the side yard without obtaining the proper permits. Upon site visits conducted by staff, a carport was observed and encroached into the side setback at 4'-3" where a minimum of 5' is permitted. Additionally, the impervious cover exceeds the maximum 50% impervious cover requirement in the front yard.

Code Enforcement History

PMT- Building Without A Permit- August 2022

PMT- Building Without A Permit- April 2022

Overgrown Yard Investigation- September 2021

The issuance of a building permit is pending the outcome of the Board of Adjustment.

Permit History

There are no relevant permits pulled for the subject property.

Zoning History

The subject property was annexed into the City of San Antonio by Ordinance 12611, dated August 30, 1950, and originally zoned "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 Residence District converted to "R-5" Residential Single-Family District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
South	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
East	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
West	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the North Central Community Plan and is designated "Low Density Residential" in the future land use component of the plan. The subject property is located within the boundary of the Shearer Hills Ridgeview, and they have been notified of the request.

Street Classification

Sharon Road is classified as a local road.

Criteria for Review – Fence Height, Side Setback, and Impervious Cover 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. The applicant is requesting a variance for additional fence height and impervious cover. Fence height exceeding 8' requires a variance. This variance is contrary to the public interest as there were no other 8' fences found in the immediate area. The impervious coverage limitation maintains the management of storm water by lessening runoff. Further, the regulations are provided to prevent front yards from being covered by impervious surfaces, which can diminish the character of the community. The request is contrary to the public interest.

The applicant is requesting a variance for a carport to be 4'-3" from the side property line, which is not contrary to the public interest. This distance provides adequate spacing and abides by the front setback requirement.

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

A literal enforcement of the ordinance would result in the applicant reconstructing the fence to be 6' and reducing the impervious cover surface under 50%. This would not result in an unnecessary hardship.

A literal enforcement of the ordinance would result in an unnecessary hardship, as the would not be able to build a sizeable carport due to the size of the lot.

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. Impervious coverage requirements are intended to provide a safe environment for the mitigation of water flooding during heavy rain events. Fence height requirements are intended to provide safety and uniformity. The 8'4" fence does not observe the spirit of the ordinance.

The carport is currently 4'-3" from the side property line and meets the front setback requirement. The spirit of the ordinance will be observed as the carport does not encroach on the neighboring properties and does not pose a hazard to neighboring structures.

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 impervious coverage on the subject property poses a threat to neighboring properties as it decreases the amount of water retained on site. The already constructed fence appears to alter the essential character of the district being it is the only 8'-4" fence in the immediate area.

A 4'-3" side setback for a carport does not appear to alter the essential character of the district nor will it injure adjacent properties.

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 did not find any unique circumstances that warrant the granting of the requested variance.

Staff finds that the requested variance is sought due to the placement of the existing dwelling and size of the lot. The owner of the property has a limited amount of space on the side to build a sizeable and functional carport.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Lot and Building Dimension Regulations of the UDC Section 35-310.01, Fence Height Regulations of Section 35-514, and Lot Layout, Height, and Density/ Intensity Standard of Section 35-515(d).

Staff Recommendation – Fence Height and Impervious Cover Variances

Staff recommends Denial in BOA-22-10300229 based on the following findings of fact:

1. There were no other 8' fences found in the immediate area; and
2. Fence height requirements are intended to provide safety and uniformity; and
3. Impervious coverage limitation maintains the management of storm water by lessening runoff.

Staff Recommendation – Side Setback Variances

Staff recommends **Approval** in **BOA-22-10300229** based on the following findings of fact:

1. The distance provides adequate spacing and abides by the front setback requirement;
and
2. The carport does not encroach on the neighboring properties and does not pose hazard to neighboring structures.