

Case Number:	BOA-23-10300088
Applicant:	Manuel and Rosemary Garcia
Owner:	Manuel and Rosemary Garcia
Council District:	3
Location:	1642 Santa Rita Street
Legal Description:	Lot 11, Block 4, NCB 11049
Zoning:	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager:	Vincent Trevino, Senior Planner

Request

A request for 1) a 4'-11" variance from the minimum 5' side setback requirement, as described in Section 35-370(b)(1), to allow a detached carport to be 1" from the side property line, 2) a variance from the fence materials, as described in Section 35-514(a)(6), to allow a corrugated metal fence along the western and southern property lines, 3) a 4'-2" variance from the minimum 15' Clear Vision requirement, as described in Section 35-514(a)(2), to allow a predominately open fence to be 10'-10" from the front driveway, and 4) a 3' special exception from the maximum 3' fence height, as described in Section 35-514, to allow a 6' privacy fence in the front yard along the western property line.

Executive Summary

The subject property is located just South of Loop 410 between the intersections of Ruidosa Street and Renova Street. The applicant is requesting variances the following: side setback and fence materials. Built without a permit, the applicant constructed a detached carport which encroaches into the side setback. Building Without a Permit began on March 21, 2023, for a property setback violation. Additionally, staff observed a 6' solid screened fence constructed of prohibited fence material, corrugated metal, situated in the front yard along the western property line. Front yard fences are allowed a maximum height of 3' and must be constructed from the allowable fence materials, per the UDC. An accessory structure's height is limited to the height limitation of the base zoning district, in this case is 35'. The applicant has been informed that parking of oversized vehicles is not permitted in a residential zoning district, even outside the "restricted parking area" due to lot size not meeting half an acre.

Code Enforcement History

Building Without a Permit (INV-PBP-23-3100001480) March 2023

Permit History

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

Zoning History

The subject property was annexed into the City of San Antonio by Ordinance 18115, dated September 24, 1952, and zoned "B" Residence District. The property was rezoned by Ordinance 62153, dated January 9, 1986, to the "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 the current "R-6" Residential Single-Family District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
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"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
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Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
South	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
East	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
West	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Heritage South Sector Plan and is designated as “General Urban Tier” in the future land use component of the plan. It is in the Villa Coronado Neighborhood Association, and they were notified of the request.

Street Classification

Santa Rita Street is classified as a Local Street.

Criteria for Review for Carport Side Setback, Fence Material, and Clear Vision.

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 restricted carport side setback to provide space between properties, fencing materials to allow for a safe environment which is not fit for residential areas. Staffs finds the requests to allow a carport to be 1” from the side property line and variance from the fence materials is contrary to the public interest.

The applicant is requesting a 4’-2” variance from the minimum 15’ clear vision requirement to allow a predominately open fence to be 10’-10” from the front driveway. In this case, the predominately open fence does not impede vehicles from entering or exiting the property. Staff finds that this request is not contrary as this distance does not propose any safety issues.

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

There are no special conditions found on the subject property to warrant the applicant to deviate from the current Unified Development Code (UDC) standards. A literal enforcement of the ordinance would result in the applicant altering the already constructed carport and corrugated fence to meet current building standards.

A literal enforcement of the ordinance would result in the applicant altering the fence to meet the minimum 15' distance requirement as this would create an unnecessary hardship, as the fence is existing.

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 carport in its current position and corrugated fence material variances do not observe the spirit of the ordinance. These ordinances are put into effect to allow for uniform and safe development.

The fence is currently 10'-10" from the front driveway. Staff finds the spirit of the ordinance will be observed and substantial justice will be done with the requested variance as adequate sight distance is presented.

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, staff finds these requests as no other properties in the immediate vicinity seemed to be violating the UDC building standards and would alter the essential character of the district.

If granted, the distance will maintain 10'-10" from the front driveway which will not likely alter the essential character of the district. Upon site visits, staff observed other front yard predominantly open fences in the immediate vicinity.

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. The circumstances do not appear to be merely financial.

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 proposed fence being requested is corrugated metal, located along the western

property line and exceeds the maximum height requirement. If granted, staff finds the request would not 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 proposed fence be requested will be located along the western property line and is exceeding the maximum height requirement. Staff did not observe any significant topographical changes on the subject property or adjacent property. The fence is corrugated metal, which still does not serve the public welfare and convenience.

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

The proposed 6' corrugated metal fence will substantially injure neighboring conforming properties, as no other fences in the immediate seemed to exceed the height requirement.

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 essential character of the district. The corrugated fence exceeds the height requirement along the western property line and cannot be found in the surrounding area, including properties adjacent to the subject property thus it is highly likely that the request will alter the essential character of the district.

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 allows for the use of a single-family dwelling. The requested special exceptions will likely weaken the general purpose of the district.

Alternative to Applicant's Requests

The alternative to the applicant's request is to conform to the Carport Side Setback Standards of the UDC Section 35-370(b)(1), the fence material and height standards in UDC Section 35-514 .

Staff Recommendation – Detached Carport Side Setback, and Fence Materials

Staff recommends Denial in BOA-23-10300088 based on the following findings of fact:

1. There are no special conditions found on the subject property to warrant the applicant to deviate from the current Universal Development Code (UDC) standards; and
2. The requested variances allow for inconsistent and unsafe development patterns.

Staff Recommendation-Fence Height Special Exception

Staff recommends Denial in BOA-23-10300088 based on the following findings of fact:

1. The proposed 6' corrugated metal fence will result in inconsistent development patterns, as no other fences exceeding the height requirements were seen in the immediate area.

Staff Recommendation – Clear Vision Variance

Staff recommends **Approval** in **BOA-23-10300088** based on the following findings of fact:

1. Altering the fence to meet the minimum 15' clear vision requirement will result in an unnecessary hardship, as front yard space would be reduced drastically.