

Case Number:	BOA-23-10300188
Applicant:	Sergio Ireta
Owner:	Sergio Ireta
Council District:	1
Location:	539 El Monte Boulevard
Legal Description:	Lot 1 and Lot 2, Block 3, NCB 7242
Zoning:	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District
Case Manager:	Joseph Leos, Planner

Request

A request for 1) a 17' variance from the minimum 20' garage entry setback, as described in Section 35-516(g), to allow a garage to have a 3' entry on the side setback and 2) a 7'-3" variance from the minimum 15' clear vision requirement, as described in Section 35-514(a)(2), to allow a fence to be 7'-9" from the side yard driveway curb.

Executive Summary

The subject property is located along El Monte Boulevard, intersecting with Beacon Avenue. The applicant is proposing to construct a detached garage in the rear yard, with the frontage being located off Beacon Avenue. The proposed garage is anticipating on having a 3' entry, deviating from the minimum (20) feet of total parking area depth that is required to be maintained within the lot to prevent vehicles from obstructing the Right of Way. The addition of the garage, located forward of the existing fence line, will create the need for the clear vision variance. The fence measured to be 7'-9" from the side property line, while the minimum distance required is 15'.

Code Enforcement History

Overgrown Yard Investigation- June 2023

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 1941, dated May 30, 1940, and originally zoned “B” Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “B” Residence District converted to “R-4” Residential Single-Family District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence

South	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
East	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
West	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the North Central Neighborhoods Community Plan and is designated as “Low Density Residential” in the future land use component of the plan. The subject property is located within the boundary of the Northmoor Neighborhood Association and they have been notified of the request.

Street Classification

El Monte Boulevard Street is classified as a local road.
Beacon Avenue is classified as a local road.

Criteria for Review – Garage Setback and Clear Vision 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 interest of the public is depicted by the enforcement of garage setbacks to ensure that vehicles do not interfere with the Right of Way and minimum clear vision requirements to allow for the safety of oncoming vehicular traffic. The requested 17’ variance to allow a garage to have a 3’ entry does not provide adequate distance, as the vehicles may interfere with the public right of way. Additionally, the imposing of the clear vision field is contrary, as 7’-9” does not allow for adequate sight for oncoming vehicles.

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

There are no special conditions on the subject property to warrant the need for a reduced garage setback and clear vision distance. A literal enforcement of the ordinance would result in the applicant having to alter the garage setback to 20’ and the fence to 15 from the side yard curb. This would not result in an unnecessary hardship, as the garage has not been constructed and the fence appears to allow for alterations.

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. Substantial justice will not be served as a 3’ garage setback will interfere with the Right of Way. Additionally, the allowance of the fence to be 7’-9” poses harm for vehicles reversing from the anticipated garage – if approved.

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.*

The requested variances will injure the appropriate uses of adjacent properties and may alter the essential character of the neighborhood as the requested garage setback and clear vision variances are highly likely to affect the public right of way and vehicular safety.

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 the garage has not been constructed and plans appear to allow for alterations.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Setback and Frontage Regulations of Section 35-516(g) and Fence Clear Vision Area of Section 35-514(a)(2) in the Unified Development Code.

Staff Recommendation – Garage Setback and Clear Vision Variances

Staff recommends Denial in BOA-23-10300188 based on the following findings of fact:

1. The requested 17' variance to allow a garage to have a 3' entry does not provide adequate distance, as the vehicles may interfere with the public right of way, and
2. The imposing of the clear vision field is contrary to the public interest, as 7'-9" does not allow for adequate sight for oncoming vehicles.