

Case Number:	BOA-23-10300191
Applicant:	Juan Herrera
Owner:	Herrera Juan & Etelvina F Herrera
Council District:	5
Location:	515 South Spring Street
Legal Description:	The east 57.50 feet of the east 115 feet of Lot 4, NCB 6079
Zoning:	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Overlay Airport Hazard Overlay District 2 Airport Hazard Overlay District
Case Manager:	Richard Bautista-Vazquez, Planner

Request

A request for 1) a 7'-10" variance from the minimum 10' front setback requirement, as described in Section 35-516(g), to allow a carport to be 2'-2" from the front property line, 2) a 3'-6" variance from the minimum 5' side setback requirement, as described in Section 35-370(b)(1), to allow a carport to be 1'-6" with 1' overhang with gutters from the side property line, and 3) a 4'-8" variance from the minimum 15' clear vision requirement, as described in Section 35-514(a)(2), to allow a fence to be 10'-4" from the curb.

Executive Summary

The subject property is located along South Spring Street, south of West Cesar Chavez Boulevard on the west side of San Antonio. The applicant began constructing a detached carport but was halted by Code Enforcement for building without a permit (INV-PTI-23-3090001208). Staff did not observe any similar carports in the area. Additionally, an existing fence was encroaching into the clear vision measuring at 10'-4" from the curb. The driveway depth is approximately 27' from the front property line.

Code Enforcement History

Permit Investigation- Building Without a Permit (INV-PTI-23-3090001208)- 06/07/2023

Permit History

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

Zoning History

The property was part of the original 36 square miles of the City of San Antonio and was originally zoned “B” Residence District. The zoning converted to the current “R-4” Residential Single-Family District upon adoption of the 2001 Unified Development Code, established by Ordinance 93881, dated May 3, 2001.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Overlay Airport Hazard Overlay District2 Airport Hazard Overlay District	Single-Family Residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Overlay Airport Hazard Overlay District 2 Airport Hazard Overlay District	Single-Family Residence
South	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Overlay Airport Hazard Overlay District 2 Airport Hazard Overlay District	Single-Family Residence
East	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Overlay Airport Hazard Overlay District 2 Airport Hazard Overlay District	Single-Family Residence
West	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Overlay Airport Hazard Overlay District 2 Airport Hazard Overlay District	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Guadalupe/ Westside Community Plan and is designated as “Low Density Residential” for future land use. The subject property is located within the boundary of the Prospect Hill Neighborhood Association, and they have been notified of the request.

Street Classification

South Spring Street is classified as a local road.

Criteria for Review – Front and Side Setback Variance 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 public interest represented by setback requirements to prevent water runoff and

adequate spacing between properties. The applicant is requesting a variance to the front setback and side to allow a detached carport to be 2'-2" from the front property line and 1'-6" with 1' overhang with gutters from the side property line. The carport in its current location may be contrary, as the mitigation of storm water runoff may fall on adjacent property and right of way.

The applicant is also requesting a clear vision variance to allow an existing fence to be 10'-4" from the curb. Staff finds that this request will not be contrary to the public interest as this is an acceptable distance and the fence is made of predominately open materials.

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

Staff does not find any special conditions on the subject property. The front property line is 10' inwards from the curb. It appears that there is adequate space for the front and side minimum setback to be met if the size of the carport is reduced.

A literal enforcement of the ordinance would result in the applicant altering the fence to meet the minimum 15' clear vision requirement for the driveway. This would result in an unnecessary hardship as the fence is existing and there is limited spacing in the front yard to comply with the requirement.

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 the front and side setback variances may not observe the spirit of the ordinance, as there are no similar carports located in the surrounding area.

The clear vision request to allow a fence to be 10'-4" from the curb will observe the spirit of the ordinance by providing a safe distance between the two points, allowing vehicular traffic to not be obstructed.

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 2'-2" from the front property line and 1'-6" (with 1' overhang and gutters) from the side property line. This may injure the adjacent properties, as no other carports imposing into the setback were found in the immediate vicinity. The request seems to be out of character with the district.

If granted, the clear vision distance will be 10'-4" from the curb. This distance of the fence is not likely to alter the essential character of the district as other fences in the area were observed.

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 due to unique circumstances existing on the property, such as limited spacing on the property. Upon staff site visit it was observed that there is reasonable space to meet the minimum front and side setback minimums.

The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, such as having a small front yard.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Setback Regulations for Accessory Structures under Section 35-370(b)(1) and Section 35-516(g) of the UDC and Fence Clear Vision Regulations under Section 35-514(a)(2) of the UDC.

Staff Recommendation – Front and Side Setback Variance

Staff recommends Denial in BOA-23-10300191 based on the following findings of fact:

1. The property has suitable spacing to meet the required setbacks; and
2. No other similar carports were observed in the area.

Staff Recommendation – Clear Vision Variance

Staff recommends **Approval** in **BOA-23-10300191** based on the following findings of fact:

1. Vehicular traffic will not be obstructed with the reduced clear vision.