

Case Number:	BOA-23-10300200
Applicant:	Salvador Garcia
Owner:	Salvador Garcia
Council District:	5
Location:	1319 Flanders Avenue
Legal Description:	Lot 45 and Lot 46, Block 17, NCB 7939
Zoning:	“R-4 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District
Case Manager:	Vincent Trevino, Senior Planner

### **Request**

A request for 1) a 3' variance from the minimum 5' side setback requirement, as described in Section 35-310.01, to allow an attached carport to be 2' from the side property line, 2) a 7'-10" variance from the minimum 15' driveway clear vision, as described in Section 35-514(a)(2), to allow a 7'-2" driveway clear vision, and 3) a 1' special exception from the maximum 5' fence height, as described in Section 35-514, to allow a 6' predominantly open fence in the front property line.

### **Executive Summary**

The subject property is located along Flanders Avenue, located between Huron Street and Lenard Street. The applicant is requesting a 3' variance from the minimum 5' side setback to allow an attached carport to be 2' from the side property line. There was a building without a permit issued by code compliance for the carport being constructed prior to the issuance of a permit. The applicant is also requesting a special exception to allow a 6' predominately open fence in the front property line. Additionally, the applicant is requesting a 7'-10" variance to allow the existing fence to have a clear vision of 7'-2" from driveway.

### **Code Enforcement History**

INV-PBP-23-3100002067 - Building Without a Permit July 2023 – Pending Resolution  
INV-PTI-23-3090001381 - Building Without a Permit June 2023 – Pending Resolution

### **Permit History**

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

### **Zoning History**

The property was annexed into the City of San Antonio by Ordinance 1391, dated September 22, 1944 and 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 the current “R-4” Residential Single-Family District.

### **Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“R-4 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence

## Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-4 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence
South	“R-4 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence
East	“R-4 CD MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District with a Conditional Use for three (3) dwelling units	Duplex
West	“R-4 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence

## Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Nogalitos/South Zarzamora Community Plan and is designated as “Low Density Residential” in the future land use component of the plan. The subject property is not located within a Neighborhood Association.

## Street Classification

Flanders Avenue is classified as a Collector Street.

## Criteria for Review – Carport Side 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 applicant is requesting a 3’ variance from the minimum 5’ side setback and a 7’-10” variance from the minimum 15’ clear vision requirement to allow a fence to be 7’-2” from the front driveway. In this case, the predominately open fence does not impede vehicles from entering or exiting the property. Also, the 2’ setback will have to follow all permitting requirements and leaves room for maintenance. 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.*

**A literal enforcement of the ordinance would result in the applicant altering the carport to the 3’ side setback with no overhang and the fence to meet the minimum 15’ clear vision requirement from the front driveway. This would result in an unnecessary as a vehicle would have less room for entering/exiting and the fence is existing.**

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

**The carport is currently 2' from the side setback and the fence is currently 7'-2" 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 distance is present.**

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 side setback will be 2' from the side setback and the clear vision distance will be 7'-2" from the front driveway, which is not likely to alter the essential character of the district as other fences were seen in the immediate area with similar clear vision distances and the carport leaves enough separation from the side property line.**

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 do not appear to be merely financial. The fence line is established in the area in the current position and the carport will have a reduced area to enter/exit a vehicle.**

### **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 fence height being requested is predominantly open, located in the front property line. 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 property owners while still promoting a sense of community. The proposed fence be requested will be located along the front property line and is exceeding the maximum height requirement by 1'. The privacy and predominantly open fence still 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 and adjacent 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 fence height located in the front property line of the subject property appear to not alter the character of the district as there are other fences of this type 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 requested special exception will not weaken the general purpose of the district. The requested special exception will not weaken the use of the single-family dwelling.**

### **Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the Setbacks per Section 35-310.01, the Fence Height Regulations of Section 35-514 and Fence Clear Vision Area of Section 35-514 (a)(2) in the Unified Development Code.

### **Staff Recommendation – Carport Side Setback Clear Vision Variance**

Staff recommends **Approval of** in **BOA-23-10300200** based on the following findings of fact:

1. The predominately open fence does not impede vehicles from entering or exiting the property.
2. The fence line is established in the area at its current position and will not alter the essential character of the district, and
3. The carport leaves enough room from property line and a reduction will reduce area to enter/exit vehicle.

### **Staff Recommendation – Fence Height Special Exception**

Staff recommends **Approval** in **BOA-23-10300200** based on the following findings of fact:

1. The fence will alter the character of the district; and
2. The request will not weaken the general purpose of the district.