

Case Number:	BOA-22-10300047
Applicant:	Jaime Sanchez
Owner:	Jaime Sanchez & Perla Alvarez
Council District:	1
Location:	127 Blueridge
Legal Description:	Lot 17, NCB 6798
Zoning:	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazzard Overlay District
Case Manager:	Vincent Trevino, Senior Planner

Request

A request for 1) a 9' variance from the minimum 10' front setback requirement, as described in Section 35-310, to allow a carport to be 1' away from front property line and 2) a 4' 6” variance from the minimum 5' side setback requirement, as described in Section 35-310, to allow a carport to be 6” away from side property line, 3) a request for a 1' 4” special exception from the maximum 5' fence height, as described in Section 35-514, to allow a 6' 4” predominately open fence in the front yard, 4) a 6' variance from the minimum 15' Clear Vision Standard, as described in Section 35-514, to allow a gate 9' from the curb.

Executive Summary

The subject property is located on 127 Blueridge between NW 23rd Street and NW 24th Street. The applicant has constructed a carport that encroaches into the front and side setback. The applicant has also constructed a fence that exceeds the maximum height requirement of 5'. The existing fence is 6'4” in height and is a predominately open wrought iron fence. Upon the site visit, staff did observe other carports and fences in the immediate area. DSD Traffic staff has no reservations at this time as the information provided on the property improvement does not seem to create a clear vision obstruction or sight constraint to those using the ROW.

Code Enforcement History

There is no relevant code enforcement history for the subject property.

Permit History

There are currently no permits issued. A building permit is pending the outcome of the Board of Adjustment hearing.

Zoning History

The subject property was located within the original 36 square miles of the City of San Antonio 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
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“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
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Surrounding Zoning/Land Use

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

Comprehensive Plan Consistency/Neighborhood Association

The subject property is not located within the boundary of an adopted Comprehensive Plan therefore a finding of consistency is not applicable. The subject property is located within the Prospect Hill Neighborhood Association and West End Hope in Action, and they were notified of the case.

Street Classification

Blueridge Street is classified as a local road.

Criteria for Review – Front/Side Setback and Clear Vision 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 9' variance from the 10' front setback requirement to allow a carport to be 1' away from front property line and a 4' 6" variance from a 5' side setback requirement to allow a carport to be 6" away from side property line. The carport in its current location is too close to the front and side property lines and appears to be contrary to the public interest.

Another request is for a 6' variance from the Clear Vision Standards to allow a gate 9' from the curb. The gate is on a rolling track and does not appear to be contrary to the public interest as the DSD Traffic Staff has no issues with the clear vision within the right

of way. Staff finds a 5' front setback and a 3' side setback are more appropriate for the area and would not be contrary to the public interest.

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 having to relocate the carport structure to follow zoning setbacks which would avoid any life/safety risk that might arise being too close to neighboring structures.

The alternate recommendation to relocate the structure 5' from the front property line and 3' from the side will provide the best way to alleviate the hardships while providing adequate space to park under the carport.

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 proposed setbacks for the front and side setback do not appear to observe the spirit of the ordinance as they do not allow for adequate space and may pose life safety hazards.

Staff finds that the alternate recommendations will observe the spirit of the ordinance and justice will be done.

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 variances as requested appear to bring the carport too close to the property lines which may injure adjacent conforming properties.

Alternate variances are being recommended by staff as they do not seem likely to injure adjacent properties and are less likely to alter the essential character of the district.

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 the limited space of the lot.

Criteria for Review – Special Exception for Fence Height

According to Section 35-482(h) of the UDC, in order for a special exception to be granted, the Board of Adjustment must find that the request meets each of the five following conditions:

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 additional fence height was observed upon the site visit and, 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 a residential property while still promoting a sense of community. A 6' 4" tall predominately open screened fence along the front yard does not pose any adverse effects to the public welfare.

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

The fence will create enhanced security for the subject property on the front portion and is unlikely to substantially injure any neighboring 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 height for the front fence will not alter the essential character of the district. The request for additional fence height is to maintain security.

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 permits the current use and will not weaken the general purpose of the district.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Setback Regulations of the UDC Section 35-310, and the Clear Vision Standards and Fence Height Requirements of the UDC Section 35-514.

Staff Recommendation – Front Setback Variance

Staff recommends Denial for BOA-22-10300047 based on the following findings of fact:

1. There is adequate space in the driveway to provide a carport and meet the minimum 10' front setback requirement.

Staff Recommendation – Side Setback and Clear Vision Variance

Staff recommends Denial **with an Alternate Recommendation of a 2' variance from the minimum 5' side setback requirement to allow a carport to be 3' from the side property line for BOA-22-10300047** based on the following findings of fact:

1. DSD Traffic Staff reviewed the Clear Vision Variance request and did not find any adverse effects for the property or the surrounding area; and

2. A side setback of 3' would better serve the public and the spirit of the ordinance by providing more space.

Staff Recommendation – Front Yard Fence Special Exception

Staff recommends **APPROVAL** in **BOA-22-10300047** based on the following findings of fact:

1. The 1' 4" of additional feet in height will provide additional safety and security to the residential property; and
2. The request does not appear to alter the essential character of the district.