

Case Number:	BOA-22-10300063
Applicant:	Tim Perez
Owner:	Alejandro and Rosa Lee Ortega
Council District:	3
Location:	311 Bickley Street
Legal Description:	Lot 15, Block 5, NCB 12820
Zoning:	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District
Case Manager:	Rebecca Rodriguez, Senior Planner

Request

A request for 1) a 3' 8" variance from the minimum 5' side setback requirement, as described in Section 35-310.01, to allow a carport with a 1' overhang and gutters to be 1'4" from the side property line, and 2) a 1' 4" special exception from the maximum 6' fence height, as described in Section 35-514, to allow a solid screened fence to be 7' 4" tall along the side property line.

Executive Summary

The subject property is located along Bickley Street in the southern part of San Antonio near Stinson Airport and contains a single-family residence. The applicant is requesting a variance to allow the replacement of an existing carport that does not currently maintain the minimum 5' side setback requirement. The carport will also be extended towards the front, proposing a side setback of 1'4". A carport is required to maintain 10' to the front property line and 5' to the side property line. The proposed carport will meet the front setback requirement. Staff also observed a wood privacy fence along the side property line that measured at 7' 4" in height. The maximum height permitted for a solid screened side fence is 6'. The fence will not extend past the front façade of the residence.

Code Enforcement History

There are no code violations for this property.

Permit History

There are no relevant permits on file for this property. The permit for the carport and the fence is pending the outcome of the Board of Adjustment hearing.

Zoning History

The subject property was annexed into the City of San Antonio by Ordinance 18115 dated September 25, 1952 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 “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
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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 Stinson Airport Vicinity Land Use Plan and is designated “Low Density Residential” in the future land use component of the plan. The subject property is located within an area where there are no registered neighborhood associations.

Street Classification

Bickley Street is classified as a Local Road.

Criteria for Review – Side Setback 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. The applicant is requesting a variance to the side setback to allow a carport to be 1’4” from the side property line. The request appears to be contrary to the public interest as the structure will be too close to the side property line. This rises concerns of potential water run off and life and safety hazards.

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 build the carport 5’ from the side property line. Staff finds an unnecessary hardship can be avoided by constructing the carport closer to the front, where a 5’ side setback is feasible.

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 requested setback of 1’4” does not observe the spirit of the ordinance as it is too close to the side property line leading to potential adverse impacts to neighboring properties.

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.*

Staff does find evidence that the requested variance could alter the essential character of the district. While there are carports in the neighborhood that do not meet the minimum side setback requirement, they all appear to have more spacing than the proposed setback of 1' 4".

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. The carport could be redesigned and located along the front of the existing residence. The request could potentially be merely financial.

Criteria for Review – Fence Height Special Exception

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 proposed solid screened fence being requested is located along the side property line behind the front façade of the residence. 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 residential property owners while still promoting a sense of community. A 7' 4" tall fence along the side property line 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 add security to the subject property, and adjacent properties. Other solid screened fences were observed in the area therefore the request is unlikely to substantially injure any neighboring properties. Additionally, the property is abutting an alley to the rear.

- 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 along the side does not appear to alter the essential character of the district. The fence is located behind the front façade of the residence; thus, it does not appear out of character for the neighborhood.

- 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 use of a single-family home. The requested special exception 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 requirements listed in Section 35-310.01 and the Fence Height listed under Section 35-314 of the UDC.

Staff Recommendation – Side Setback Variance

Staff recommends Denial in BOA-22-10300063 based on the following findings of fact:

1. The carport is currently 1' 4" from the side property line; and
2. The carport may alter the essential character of the district in which it is located; and
3. The carport can be relocated to the front of the residence and meet the setback requirements.

Staff Recommendation – Fence Special Exception

Staff recommends **Approval** in **BOA-22-10300063** based on the following findings of fact:

1. The 7' 4" fence will add additional security and privacy to the subject site and immediate area; and
2. Wood privacy fences were observed within the surrounding area; and
3. There is an alley located to the rear of the subject property.