

Case Number:	BOA-22-10300228
Applicant:	Anna Saenz
Owner:	Anna Saenz
Council District:	3
Location:	1615 Santa Rita Street
Legal Description:	Lot 28, Block 2, NCB 11047
Zoning:	"R-6 AHOD" Residential Single Family Airport Hazard Overlay District
Case Manager:	Richard Bautista-Vazquez, Planner

### **Request**

A request for a 1) 4'-2" variance from the 5' minimum side property setback, as described in Sec 35-310.01, to allow a structure to be 10" from the side property line, and 2) a 5' variance from the 15' clear vision area, as described in Sec 35-514(a)(2), to allow a fence to be 10' from the driveway.

### **Executive Summary**

The subject property is located on Santa Rita Street and is currently has a single-family home on the lot. The applicant is proposing a carport to be 6" from the side property line. The applicant constructed the carport without a permit and a Code Enforcement investigation was initiated on 07/18/2022. Upon staff site visit, staff did not observed similar styled carports that were granted a variance. Additionally, staff observed a fence that encroached the clear vision requirement by 5'. The fence measured 10' from the curb.

### **Code Enforcement History**

PMT-Building Without A Permit 07/18/2022

Zoning - Property Setback 07/16/2022

### **Permit History**

There are no permits on file for the property. The permit for the structure 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 24, 1952 and zoned "B" Residence District. Ordinance 62153 dated January 9, 1986 rezoned the property to "R-1" Single-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property converted to "R-6" Residential Single-Family District.

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

Existing Zoning	Existing Use
"R-6 AHOD" Residential Single Family Airport Hazard Overlay District	Single Family Dwelling

### **Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
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North	"R-6 AHOD" Residential Single Family Airport Hazard Overlay District	Single Family Dwelling
South	"R-6 AHOD" Residential Single Family Airport Hazard Overlay District	Single Family Dwelling
East	"R-6 AHOD" Residential Single Family Airport Hazard Overlay District	Single Family Dwelling
West	"R-6 AHOD" Residential Single Family Airport Hazard Overlay District	Single Family Dwelling

### **Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Heritage South Sector Plan and is designated as “General Urban Tier” the future land use component of the plan. The subject property is in the Villa Coronado Neighborhood Association and were notified.

### **Street Classification**

Santa Rita Street is classified as a local road.

### **Criteria for Review –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 fence is not significantly obstructing the right of way vision and does not appear to be contrary to the public interest.**

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

**The fence being existing would result in an unnecessary hardship to conform to the clear vision requirements.**

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

**The fence is not obstructing the right of way significantly.**

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 not find evidence that the requested variance would 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.*

**The variances are sought is due to unique circumstances existing such as the fence being existing. The variance request is not merely financial.**

### **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 structure has adequate space to have a side setback of 3'-0". The structure will meet the front setback requirement but does appear to be contrary to the public interest.

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

Staff finds no hardship on the lot as there is adequate space to meet the minimum side setback requirement for 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 will not be observed as there may possibly have water runoff onto the neighboring property.

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 finds evidence that the requested variance would alter the essential character of the district as it is too close to the neighboring property.

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.*

Because of the width of the lot and configuration of the existing residence, maintaining a 10" side setback is not appropriate for the area. The request is not merely financial.

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

The alternative to the applicant's request is to conform to the setback requirements of the UDC Section 35-310.01 and Clear Vision requirements of Section 35-514 (a)(2)

### **Staff Recommendation – Side Setback Variance**

Staff recommends Denial with an Alternate Recommendation for 3' for the Side Setback in **BOA-22-10300228** based on the following findings of fact:

1. The structure could create water runoff on neighboring lot; and
2. No other similar carport variances were approved in the area.

### **Staff Recommendation – Clear Vision Variance**

Staff recommends **Approval** in **BOA-22-10300228** based on the following findings of fact:

1. There are similar styled fences with similar clear vision encroachments in the surrounding area.