

Case Number:	BOA-21-10300141
Applicant:	David Gomez
Owner:	David Gomez
Council District:	1
Location:	1419 West Gramercy Place
Legal Description:	Lot 20, Block 59, NCB 2753
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:	Kayla Leal, Principal Planner

Request

A request for 1) a 3' 10" variance from the minimum 10' front setback, as described in Section 35-310, to allow a carport with 3' of overhang to be 6' 2" from the front property line, 2) a 4' 11" variance from the minimum 5' side setback requirement, as described in Section 35-310, to allow a carport to be 1" from the side property line, 3) a 1' 3" special exception from the 5' maximum height requirement, as described in Section 35-514, to allow a solid-screened front yard fence to be 6' 3" tall, and 4) a 7' 10" variance from the 15' minimum clear vision standards, as described in Section 35-514, to allow a front yard fence to be 7' 2" away from the curb.

Executive Summary

The subject property is located along West Gramercy Place near Warner Avenue. The applicant submitted the application for a variance to the front and side setback for the carport. The carport was being built without permits and a notice was received from Code Enforcement. Upon the site visit conducted by staff, the carport was measured to be 6' 2" from the front property line and 1" from the side property line. Additionally, a solid-screened front yard fence was installed which exceeds the 5' height maximum. The portion of front yard fence along the eastern property line is also encroaching into the Clear Vision Field as it is 7' 2" from the curb.

Code Enforcement History

A permit investigation was opened on July 22, 2020 for Building Without A Permit for constructing a wrought iron fence and having the solid-screened fence.

A permit investigation was opened on August 30, 2021 for Building Without A Permit. The case is pending resolution.

Permit History

No relevant permits appear to have been pulled for the property. The permit for the carport is pending the outcome of the Board of Adjustment Hearing.

Zoning History

The subject property is located within the Original City Limits of San Antonio and was zoned "B" Residence District. Upon adoption of the 2001 Unified Development Code, established by

Ordinance 93881, dated May 3, 2001, the zoning converted from “B” 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 MLOD-2 MLR-1 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence
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 Near Northwest Community Plan and is designated “Urban Low Density Residential” in the future land use component of the plan. The subject property is located within the Keystone Neighborhood Association and were notified of the case.

Street Classification

West Gramercy Place is classified as a local road.

Criteria for Review – Variances for Setback and Clear Vision

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 has constructed a carport without pulling permits and it currently encroaches into the side setback. The carport is currently 1” away from the side property line. Staff recommends the carport be moved 3’ away from the side property line.

As staff does not recommend the special exception for the fence height, staff does not recommend the variance to the Clear Vision standards.

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 relocating the carport five feet from the side property line. The driveway is currently 10’ 5” wide, so having the post 5’ from the side property line would create an obstruction for the vehicle.

As staff does not recommend the special exception for the fence height, staff does not recommend the variance to the Clear Vision standards.

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 setbacks are intended to provide fire safety and uniformity. The structure does not appear to observe the spirit of the ordinance.

As staff does not recommend the special exception for the fence height, staff does not recommend the variance to the Clear Vision standards.

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 did not observe other residential structures with similar front and rear setbacks in the surrounding area. The constructed residence appears to alter the essential character of the district.

As staff does not recommend the special exception for the fence height, staff does not recommend the variance to the Clear Vision standards.

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 does not find the plight of the owner of the property for which the variance is sought to be due to unique circumstances existing on the property and it also does not appear to 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 fence as installed does not appear to be in harmony with the spirit of the chapter as it exceeds the maximum fence height.

- 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. The installed fencing does not substantially serve the public welfare and convenience as it appears to be one of the only front yard solid-screened fences in the surrounding area.

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

The fencing appears to offer additional privacy and security for the subject property, however the applicant can install a predominately open 5' fence or reduce the height to 3' in place of the existing fencing.

- 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 section of front yard fence will appear to alter the essential character of the district. Other fences in the surrounding area appeared to be predominately open.

- 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 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 Lot and Building Dimensions of the UDC Sections 35-310.01 and the Fence Height and Clear Vision Regulations of Section 35-514.

Staff Recommendation – Side and Front Setback Variance and Clear Vision Variance

Staff recommends Denial in BOA-21-10300141 based on the following findings of fact:

1. The carport is currently setback 1" from the side property line and 6' 2" from the front property line; and
2. There is not adequate space to move the carport
3. The carport is out of character for the surrounding area as no others were observed.

Staff Recommendation – Front Yard Fence Special Exception

Staff recommends Denial in BOA-21-10300141 based on the following findings of fact:

1. There are solid-screened fences exceeding height along both the eastern and western side property lines; and
2. The solid-screened fence is currently 4' 3" tall along the eastern property line and as tall as 6' along the western property line; and
3. The solid-screened fence shall conform to Section 35-514 and not exceed 3'; and
4. The fences as installed appear to be out of character with the surrounding area as not many other properties were observed to have solid-screened front yard fences.