



# City of San Antonio

## Legislation Details (With Text)

**File #:** 16-5979  
**Type:** Zoning Case  
**In control:** Board of Adjustment  
**On agenda:** 12/5/2016  
**Title:** A-17-017: A request by Gabriel Kellum for 1) a special exception to allow an eight foot fence in the front and side yard and 2) a request for a 30 foot variance from the 30 foot platted front setback to allow a carport on the front property line, located at 12722 El Sonteo. Staff recommends Denial with an Alternate Recommendation. (Council District 10)  
**Sponsors:**  
**Indexes:**  
**Code sections:**  
**Attachments:** 1. A-17-017 Site Plan, 2. BOA17-017NPA, 3. BOA17-017PP, 4. A-17-017 Photos

Date	Ver.	Action By	Action	Result
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**Case Number:** A-17-017  
**Applicant:** Gabriel Kellum  
**Owner:** Jerry and Sandra Gragg  
**Council District:** 10  
**Location:** 12722 El Sonteo Street  
**Legal:** Lots 6 and 7, Block 8, NCB 15871  
**Description:**  
**Zoning:** "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District  
**Case Manager:** Shepard Beamon, Senior Planner

### Request

A request for 1) a special exception to allow an eight foot fence in the front and side yard, as described in Section 35-514(c)(1) and 2) a request for a 30 foot variance from the 30 foot platted front setback to allow a carport on the front property line, as described in Section 35-516(o).

### Executive Summary

The subject property is currently located in Valencia Unit-2 subdivision, established in 1972. The applicant is requesting a special exception to construct an eight foot fence along the side and in portions of the front yard. The requested fence height is due to the family dog that can easily jump a six foot fence. The applicant is also requesting a variance from the 30 foot platted setback to construct a carport that extends to the front property line. The applicant is requesting the carport to protect the owners' vehicles from damage from severe weather and to prevent slipping.

### Subject Property Zoning/Land Use

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

### Surrounding Zoning/Land Use

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

### Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the North Sector Plan and currently designated Suburban Tier in the future land use component of the plan. The subject property is located within the boundaries of Valencia HOA and they were asked to comment.

### Criteria for Review

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 allows fences higher than six (6) feet tall as a special exception, authorized under certain circumstances in accordance with specific factors as described in this report. Allowing a fence as tall as eight feet in the front yard of the property is not in the harmony with the spirit.

**The additional fence height in the rear only would provide safety, security, and privacy for the owner and ensure safety for the family's pet. This is in harmony with the spirit.**

*B. The public welfare and convenience will be substantially served.*

The addition of a large non-conforming fence in the front yard does not serve the public welfare and convenience.

**Allowing an eight foot fence in the rear yard will provide an appropriate barrier for the family and neighboring property owners as the family has a dog that could jump over a six foot fence.**

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

The eight foot fence will not directly injure the adjacent property; however, it will detract from the overall appearance of the surrounding properties as all other homes respect the required fence heights.

**The alternate recommendation of an eight foot fence in only the rear yard will have no negative impact**

**on the 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 requested eight foot fence in the front yard will conflict the existing character of the neighborhood as there is lack of other eight foot fences. Further, there are no fences that exceed six feet in the front yards within the neighborhood.

**Reducing the eight foot fencing to the rear yard only will not significantly detract from the essential character of the neighborhood. The existing fence is need of replacement and the proposed new fencing will enhance the character of the subject and surrounding properties.**

*E. The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district.*

The purpose of the fencing standards is to protect the health, safety and general welfare of the public, enhance property values, and improve the appearance of the community. The applicant could construct a six solid foot fence behind the front façade that would still provide the requested privacy sought by the owner.

**The applicant has stated the fence will insist in improving the overall appearance of neighborhood, replacing a dated six foot fence. The alternate recommendation will not weaken the general purpose of the district.**

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. In this case, these criteria are represented by platted front setback to provide uniform development in this subdivision. The elimination of the 30 foot setback is contrary to the public interest as it does establish uniformity within the community.

**An alternate recommendation of a 20 foot variance for a 10 foot setback from the property line would respect the City required setback in the “R-6” residential zoning.**

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

There is no special condition present on this property that would result in an unnecessary hardship as the home has an attached two car garage.

**Without a carport, the property owners’ newer vehicles are subject to damage from inclement weather, resulting in an unnecessary hardship.**

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

The spirit of the ordinance would not be observed as there are no other carports within the neighborhood located on the front property line. Further, a 30 foot carport provides more than enough coverage for two vehicles. The carport could be reduced to 20 feet and still meet the needs of the owner’s vehicles.

**By providing a 10 foot setback, substantial justice will be served as City code will be upheld and it will not increase the risk of fire spread, water runoff, or maintenance with trespass on adjacent properties.**

*4. The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*

**The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the “R-6 AHOD” Residential Single-Family Airport Hazard Overlay District.**

*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 elimination of the platted front setback would detract from the character of the neighborhood as there are no other carports in the neighborhood located directly on the front property line.

**The alternate recommendation of a 20 foot variance resulting in a 10 foot setback from the property line would better establish uniformity in the neighborhood by providing some distance between the carport and public right-of-way.**

*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.*

There is no unique circumstance that could warrant the approval of the requested variance on the front property line. A carport could be constructed at a shorter depth and still provide adequate coverage for the owners' vehicles.

**The large 30 foot platted front setback prevents any additions to the front of the home. This is not fault of the owner and not merely financial in nature.**

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

The owner could construct the fence to meet the UDC fence height requirements.

The owner would not be allowed to construct a carport in the front yard.

The owner could construct the carport in the rear yard that meets the side and rear yard setbacks.

#### **Staff Recommendation**

Staff recommends **DENIAL of the requested special exception in A-17--017 with an alternate recommendation to allow an eight foot fence in the rear yard only** based on the following findings of fact:

1. An eight foot fence in the rear yard will not hinder the adjacent property;
2. An eight foot rear yard fence will provide the owner with the needed protection for the family's dog;
3. An eight foot rear yard fence would better establish uniformity with the neighborhood as no other properties have fencing taller than six foot in the front yard.

Staff recommends **DENIAL of the requested variance in A-17--017 with an alternate recommendation of a 20 foot variance from the 30 foot platted setback to allow carport to be 10 feet from the front property line** based on the following findings of fact:

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2. The alternate recommendation will not require maintenance with trespass and will not create an increased risk for fire spread or water runoff on the adjacent property.