



# City of San Antonio

## Agenda Memorandum

**File Number:**18-4482

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**Agenda Item Number:** 3.

**Agenda Date:** 8/6/2018

**In Control:** Board of Adjustment

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Case Number: A-18-123  
Applicant: Alejandro Cantu  
Owner: Alejandro Cantu  
Council District: 1  
Location: 2415 North Flores Street  
Legal: The South 54.13 Feet of Lot 8, Block 6, NCB 1892  
Description:  
Zoning: "R-6 NCD-2 AHOD" Residential Single-Family Alta Vista  
Neighborhood Conservation Airport Hazard Overlay District  
Case Manager: Debora Gonzalez, Senior Planner

### **Request**

A request for 1) a 2' variance from the Alta Vista Neighborhood Conservation District design requirement that limits front yard predominately open fencing to 4' to allow a 6' tall predominantly fence along a portion of the front and side yard and 2) a request for a 4' variance from the Alta Vista Neighborhood Conservation District design requirement that limits front yard solid screen fencing to 2' to allow for a 6' tall solid wood fence in a portion of the front yard and 3) a request for a variance from the Clear Vision requirements to allow fencing within the Clear Vision area and 4) a 4'11" variance from the required 5' side setback, as described in Section 35-310.01, to allow a carport to be 1" from the side property line.

### **Executive Summary**

The subject property is located at 2415 North Flores Street, approximately 168 feet from West Ashby Place. The applicant is seeking a total of 4 variances in order to maintain the subject property, as is. The first request is to allow for a 6' predominantly fence along a portion of the front and side yard. The second request is to allow for a 6' tall solid wood fence along portion of the front yard. The third request is to allow a 6' tall solid wood fence in a portion of the front yard to be within the Clear Vision area. Lastly, the fourth request is to allow a carport to be 1" from the side property line.

The applicant was originally requesting a variance to allow a 6' predominately open fence along the front property line, however, during field visits staff noted multiple variances that needed to be addressed. The applicant was not aware of all other variances required. The applicant stated that he bought the property as is and was not aware that it was not in compliance with Code, agreeing to add all variances required to bring the subject property in compliance.

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

<b>Existing Zoning</b>	<b>Existing Use</b>
"R-6 NCD-2 AHOD" Residential Single-Family Alta Vista Neighborhood Conservation Airport Hazard Overlay District	Two-Family Dwelling

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

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	"R-6 NCD-2 AHOD" Residential Single-Family Alta Vista Neighborhood Conservation Airport Hazard Overlay District	Single-Family Dwelling
South	"C-2 NCD-2 AHOD" Commercial Alta Vista Neighborhood Conservation Airport Hazard Overlay District	Flower Shop
East	"C-2 NA NCD-2 AHOD" Commercial Non-Alcoholic Sales Alta Vista Neighborhood Conservation Airport Hazard Overlay District	Single-Family Dwelling
West	"R-6 NCD-2 AHOD" Residential Single-Family Alta Vista Neighborhood Conservation Airport Hazard Overlay District	Single-Family Dwelling

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

The subject property is within the boundaries of the Midtown Neighborhood Plan and currently designated Neighborhood Commercial in the future land use component of the plan. The subject property is located within the Alta Vista Neighborhood Association. As such they were notified and asked to comment.

### **Street Classification**

North Flores Street is classified as a local street.

## **Criteria for Review**

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 public interest is represented by preserving the unique character of this community. The request to allow the front yard fence to encroach into the Clear Vision field is contrary to the public interest as the lot is located near an intersection that experiences a steady-flow of traffic on West French Place. Likewise, the carport built within the side setback maximizes fire spread and limits maintenance of the structure. Staff cannot support such variances that harm the public interest.

**Staff supports the requests for front yard fencing. The front yard fencing does not detract of the character of the district and no complaints have been recorded on the solid wood fence between the applicant's lot and the adjacent commercial development. Staff recommends any portion of the fence encroaching into the Clear Vision field removed. Staff further recommends that the eave be removed from the carport to provide a one foot setback.**

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

There are no special conditions that warrant a violation of the Clear Vision field or to allow a structure one inch from the side property line.

**Staff supports the variances for the front yard fencing as care has been taken to minimize injury to the adjacent property and the character of the district the property is located in. Further, staff supports a 1' setback for the carport, which could be achieved by removing the eave.**

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 the intent of the code rather than the strict letter of the law. The intent of the NCD is to protect the integrity of the neighborhood and safety of passerby. The variances to encroach upon the Clear Vision and allow the carport to remain within the side setback go against this intent.

**Staff supports the fencing requests within the front yard, minus that portion located within the Clear Vision field. A 1' setback would provide better separation between the carport and the adjacent commercial 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.*

The variance will not authorize the operation of a use other than those uses specifically authorized by the "R-6 NCD-2 AHOD" Residential Single-Family Alta Vista Neighborhood Conservation 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.*

Staff cannot support the requests to allow the carport to remain as is. This request is at odds with the intent of the Code to limit fire spread and allow adequate light, air, and to provide room for maintenance of the structure without trespass. Staff also cannot support the request to encroach upon the Clear Vision as the location of the lot in relation to an intersection increases the risk of injury to passersby, and adjacent properties.

**The requests to maintain the front and side yard fencing are unlikely to detract from the essential character of the community in which it is located. Lastly, a 1' setback could be achieved by removing the eave of the carport.**

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 is unable to determine any unique circumstances to allow the requested Clear Vision violation or a 1" side setback.

**The front fencing does not detract from with the Neighborhood Conservation District and are unlikely to harm adjacent properties. A 1' side setback for the carport will provide some space to maintain the structure, while providing enough width to use.**

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

The alternative to the applicant's request would be to adhere to the requirements of both the Unified Development Code and the Neighborhood Conservation District.

### **Staff Recommendation**

Staff recommends **APPROVAL** of 1) a 2' variance from the Alta Vista Neighborhood Conservation District design requirement that limits front yard predominately open fencing to 4' to allow a 6' tall fence along a portion of the front and side yard and 2) a request for a 4' variance from the Alta Vista Neighborhood Conservation District design requirement that limits front yard solid screen fencing to 2' to allow for a 6' tall solid wood fence is a portion of the front yard based on the following findings of fact:

1. As the front yard fence is predominantly open, the requested variance does not detract from the character of the neighborhood;
2. No complaints of the side yard solid wood fence have been recorded and does not harm the adjacent conforming status of that property.
3. The solid screen fence helps separate this residential property from the adjacent commercial use.

Staff recommends **DENIAL** of 3) a request for a variance from the Clear Vision requirements to allow fencing within the Clear Vision area and 4) a 4'11" variance from the required 5' side setback to allow a carport to be 1" from the side property line based on the following findings of fact:

1. The property is a compact lot and vision is hindered by fencing bordering the driveway. Further, the property is located near an intersection with West French Place that experiences steady-flow of

traffic, and;

2. The carport is uncharacteristic of the neighborhood as there is no other carports within the immediate area staff inspected, and;
3. The carport is built too near to the adjoining property to adequately allow air, light, and maintenance of the structure. A 1' side setback could alleviate some of these concerns.