



City of San Antonio

Agenda Memorandum

File Number:21-1021

Agenda Item Number: 4.

Agenda Date: 1/11/2021

In Control: Board of Adjustment

Case Number:	BOA-20-10300115
Applicant:	Ryan Casanova
Owner:	Ryan Casanova
Council District:	1
Location:	1127 West Rosewood Avenue
Legal Description:	Lots 13 & 14, Block 9, NCB 3110
Zoning:	"R-6 NCD-5 AHOD" Residential Single-Family Beacon Hill Neighborhood Conservation Airport Hazard Overlay District
Case Manager:	Kayla Leal, Senior Planner

Request

A request for 1) a 4' 10" variance from the minimum 5' side setback, as described in Section 35-310.01, to allow a carport to be 2" away from the side property line, 2) a variance to allow plastic as a fencing material, and 3) a special exception to allow a portion of the side yard fence to be 8' tall, as described in Section 35-514, and zoning variances from the Beacon Hill Neighborhood Conservation District (NCD-5) carport design regulations, as described in Section 35-335, (a) is recessed a minimum of 5' behind the principal structure front facade, (b) vertical support or structural elements shall match the exterior materials of the principal structure in design, scale, proportion, placement, and profile, (c) has a roof that meets the principal structure below the principal structure's eaves, (d) a 4' variance to the maximum 12' driveway width design regulation to allow a driveway width to be 16', and (e) 1' 3" variance to the curb cut maximum of 15' to allow a curb cut to be 16' 3".

Executive Summary

The subject property is located mid-block on West Rosewood Avenue and has a single-family residential dwelling on the subject property. There is a section of the carport in front of the structure that encroaches 4' 10" into the side setback, and the farthest section of the carport is within the fenced area and encroaches 1' 8" into the side setback. In addition to the side setback encroachment, the applicant has added an additional 2' in height to a section of the side yard fence with a plastic material. This requires a variance to the fencing material as well as a special exception for the height. Furthermore, the subject property is located within the Beacon Hill

Neighborhood Conservation District, and there are certain design aspects of the carport that also require a variance.

Code Enforcement History

There are no open code enforcement cases related to this subject property.

Permit History

There are no relevant permits pulled for the property.

Zoning History

The subject property was in the Original City Limits of San Antonio and was zoned “B” Residence District. The zoning changed from “B” to “R-1” Single Family Residence District on September 25, 1997, established by Ordinance 86704. The zoning converted from “R-1” to the current “R-6” Residential Single-Family District upon adoption of the 2001 Unified Development Code (Ordinance 93881, dated May 3, 2001).

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-6 NCD-5 AHOD” Residential Single-Family Beacon Hill Neighborhood Conservation Airport Hazard Overlay District	Single family residential

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 NCD-5 AHOD” Residential Single-Family Beacon Hill Neighborhood Conservation Airport Hazard Overlay District	Single family residential
South	“R-6 NCD-5 AHOD” Residential Single-Family Beacon Hill Neighborhood Conservation Airport Hazard Overlay District	Single family residential
East	“R-6 NCD-5 AHOD” Residential Single-Family Beacon Hill Neighborhood Conservation Airport Hazard Overlay District	Single family residential

West	“R-6 NCD-5 AHOD” Residential Single-Family Beacon Hill Neighborhood Conservation Airport Hazard Overlay District	Single family residential
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Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Midtown Regional Center Plan and is designated “Low Density Residential” in the future land use component of the plan. The subject property is located within the Beacon Hill Neighborhood Association, and they have been notified of this case.

Street Classification

West Rosewood Avenue is classified as a Local Road.

Criteria for Review - Variance for Carport, Fencing Material, Driveway Width and Curb Cut

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, the variance requested for the side setback encroachment of the carport is contrary to the public interest as the applicant has extra space to move the carport farther away from the side property line.

A 3’ variance to allow a carport to be 2’ away from the property line is not contrary to the public interest and would allow room for maintenance.

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

Staff finds that reducing the width of the carport would make it difficult for two vehicles to fit comfortably in the driveway side-by-side which could be viewed as an unnecessary hardship. The carport is 16’ wide at its widest point and would need to be reduced to about 11’ with the literal enforcement of the ordinance.

However, a slight reduction for a 3’ variance to allow a carport to be 2’ away from the property line would allow room for cars and maintenance.

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 intent of the side and rear setbacks is to provide spacing between neighboring structures. The carport is currently less than 5’ from the adjacent structure.

A 3' variance to allow a carport to be 2' away from the property line would observe the spirit of the ordinance and would allow room for maintenance.

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.*

The request to reduce the side setback does not seem likely to alter the essential character of the district. However, the carport has more than adequate space to fit a vehicle and is able to be adjusted to be farther from the property line. The design of the carport does not follow Beacon Hill Neighborhood Conservation District (NCD) guidelines, so the variance to the NCD guidelines can alter the character of this district.

A 3' variance to allow a carport to be 2' away from the property line would not alter the character of the district as there are other side yard carports within the neighborhood.

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 that the location of the carport for the lot shall warrant the granting of a lesser request. The current request is for a 4' 10" variance, but staff recommends a 3' variance to allow the carport to be 2' from the side property line.

Criteria for Review - Fence Height

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 additional fence height is intended to provide safety and security of the applicant's property. If granted, this 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. An 8' fence along a portion of the side yard will provide additional security for the applicant's property. This is not contrary to the public interest.

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

The fence will create enhanced security and privacy for the subject property and is highly unlikely to injure 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 additional height for the section of side yard fence will not alter the essential character of the district and will provide security of the district.

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 & Setback Dimensions, Fences of the UDC Sections 35-310.01, 35-514, respectively, and the Beacon Hill Neighborhood Conservation District design regulations of the UDC Section 35-335.

Staff Recommendation - Carport Side Setback

Staff recommends **Denial with an Alternate Recommendation** of the requested "4' 10" variance from the minimum 5' side setback to allow a carport to be 2" away from the side property line" **with the Alternate Recommendation of a 3' variance to allow a carport to be 2' away from the side property line in BOA-20-10300115** based on the following findings of fact:

1. The carport has a width of 16'; and
2. The adjusted width of the carport will be 14'.

Staff Recommendation - Fence Height

Staff recommends **APPROVAL of BOA-10300115** of the requested "special exception to allow a portion of the side yard fence to be 8' tall", based on the following findings of fact:

1. The additional 2' in height is requested for a portion of the eastern side yard fence; and
2. The additional 2' in height will provide more privacy and security which promotes health, safety, and welfare.

Staff Recommendation - Fencing Materials, Driveway Width and Curb Cut

Staff recommends Denial of the requested "variance to allow plastic as a fencing material" and zoning variances from the Beacon Hill Neighborhood Conservation District (NCD-5) carport design regulations (a) is recessed a minimum of 5' behind the principal structure front facade, (b) vertical support or structural elements shall match the exterior materials of the principal structure in design, scale, proportion, placement, and profile, (c) has a roof that meets the principal structure below the principal structure's eaves, (d) a 4' variance to the maximum 12' driveway width design regulation to allow a driveway width to be 16', and (e) 1' 3" variance to the curb cut maximum of 15' to allow a curb cut to be 16' 3" in BOA-20-10300115 based on the following findings of fact:

1. The carport has design aspects that are not consistent with the design regulations of the

Beacon Hill Neighborhood Conservation District.