



City of San Antonio

Agenda Memorandum

File Number:21-1668

Agenda Item Number: 3.

Agenda Date: 2/15/2021

In Control: Board of Adjustment

Case Number:	BOA-21-10300007
Applicant:	Dave Isaacs
Owner:	Be Real Estate Holdings LLC
Council District:	2
Location:	300 Queen Anne Court
Legal Description:	Lot 24, Block 5, NCB 6093
Zoning:	"R-4 NCD-6" Residential Single-Family Mahncke Park Neighborhood Conservation District
Case Manager:	Kayla Leal, Senior Planner

Request

NCD Requests:

A request for variances from the Mahncke Park Neighborhood Conservation District design standards, as described in Section 35-335, to include a) transition spaces and b) windows,

UDC Variance Requests:

2) a 3' variance to the minimum 5' rear setback, as described in Section 35-370, to allow a detached carport to be 2' from the rear property line, 3) a 4' 11" variance to the minimum 5' side setback, as described in Section 35-370, to allow a detached carport to be 1" from the side property line and 4) a 3' variance to the minimum 15' clear vision requirement, as described in Section 35-513, to allow a fence to be 12' from the street.

Executive Summary

The subject property is located on the corner of Queen Anne Court and Bellview Street. The applicant pulled a Minor Building Repair Permit, which does not require Plan Review. Upon inspection of the site, violations to the Mahncke Park Neighborhood Conservation District Design Standards were noted so it did not pass inspection. The home did not have the correct transition space and did not comply with the window design. Upon BOA staff visiting the site, setback encroachments were noticed for the carport behind the structure and clear vision violations for the proposed gate across the driveway.

Code Enforcement History

There are no relevant Code Enforcement violations pending.

Permit History

A Minor Repair Permit was pulled on November 27, 2019.

A Residential Fence Permit was pulled on January 19, 2021.

Zoning History

The subject property is located within the Original 1938 City Limits of San Antonio and was zoned “B” Residence District. The zoning converted from “B” to the current “R-4” 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-4 NCD-6” Residential Single-Family Mahncke Park Neighborhood Conservation District	Single-Family Residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-4 NCD-6” Residential Single-Family Mahncke Park Neighborhood Conservation District	Single-Family Residence
South	“R-4 NCD-6” Residential Single-Family Mahncke Park Neighborhood Conservation District	Single-Family Residence
East	“R-4 NCD-6” Residential Single-Family Mahncke Park Neighborhood Conservation District	Single-Family Residence
West	“MF-33 NCD-6” Residential Single-Family Mahncke Park Neighborhood Conservation District	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Midtown Area Regional Center Plan and is designated “Urban Low Density Residential” in the future land use component of the plan. The subject property is located within the Mahncke Park Neighborhood Association and were notified of the case.

Street Classification

Queen Anne Court and Bellview are classified as a Local Roads

Criteria for Review - 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 public interest is defined as the general health, safety, and welfare of the public. The applicant is requesting a variance to the rear setback for a detached carport, which is not contrary to the public interest as its current placement still allows for maintenance in the rear and does not inhibit clear vision.

The variances to the Mahncke Park NCD Design Standards are considered contrary to the public interest since the NCD was adopted to maintain the character of the area. In regards to the side setback, the detached carport is built one inch away from the property line, which is contrary to the public interest.

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

Literal enforcement of the ordinance for the rear setback would not allow a carport width for two off-street parking spaces. There was a carport that existed previously and the applicant demolished it and built a new one in its place.

Literal enforcement of the NCD Design Standards would only change aesthetic features of the home and would not result in unnecessary hardship. The carport can also be moved further back from the side property line which would also not result in 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 is defined as the intent of the code, rather than the exact letter of the law. With the detached carport maintaining two feet from the rear property line, the spirit of the ordinance will be observed and substantial justice will be done.

The NCD Design Standards should be observed for transition space in the front of the home and the light division of the windows. The variances do not maintain the spirit of this ordinance.

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.*

If granted, the detached carport will maintain two feet from the rear property line which is not likely to alter the essential character of the district.

The request for variances to the Mahncke Park NCD Design Standards will allow the property to 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.*

Staff finds that the detached carport will provide two off-street parking spaces and is not in violation of NCD design regulations. The size of the lot would be a unique circumstance to allow the parking in the rear.

The NCD violations and the extension of the carport near the side property line do not have unique circumstances to where they cannot follow the adopted standards and regulations.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Setback and Lot Layout of the UDC Sections 35-310.

Staff Recommendation - Variance for Rear Setback and Clear Vision

Staff recommends **Approval** in **BOA-21-10300007** based on the following findings of fact:

1. The detached carport will be 2' from the rear property line and does not inhibit clear vision; and
2. The width of the driveway is 18' 8", which allows for two off-street parking spaces.

Staff Recommendation - Variances to NCD and Side Setback

Staff recommends **Denial** in **BOA-21-10300007** based on the following findings of fact:

1. The detached carport is only one inch away from the side property line; and
2. The structure has design aspects that are not consistent with the design regulations of the Mahncke Park Neighborhood Conservation District.