



City of San Antonio

Agenda Memorandum

File Number:21-2923

Agenda Item Number: 6.

Agenda Date: 4/19/2021

In Control: Board of Adjustment

Case Number: BOA-21-10300026
Applicant: Michael Friz Baird
Owner: Michael Friz Baird & Mallory Baird
Council District: 1
Location: 124 West Summit Avenue
Legal Description: Lot 3, Block 1, NCB 1767
Zoning: "R-4 H AHOD" Residential Single-Family Monte Vista
Historic Airport Hazard Overlay District
Case Manager: Azadeh Sagheb, Planner

Request

A request for 1) a 3'7" variance to the minimum 5' side setback requirement, as described in Section 35-516, to allow a carport with 1'2" overhang to be 1'5" away from the side property line, 2) a 2' special exception, as described in Sections 35-514, to allow a side yard fence to be 8' tall.

Executive Summary

The subject property is located at 124 West Summit Avenue, within the Monte Vista Historic District. The area is characterized by residential buildings. The applicant is wanting to build a one-story metal carport within the rear yard that would have a 1'2" overhang and would be 1'5" away from the side property line. The proposed carport will have gutters installed. There was an 8' tall wooden fence along the west, rear and a portion of the east side property line and the applicant is installing the same fence on the remaining portion of the east side property line to have more privacy and security. There exists an alley on the rear side, which allows the rear side fence to be up to 8' in height. The applicant is also requesting a 2' special exception for the side yard fence height.

On January 20, 2021, the Office of Historic Preservation issued the Certificate of Appropriateness (COA) and allowed the construction of a one-story rear carport.

Code Enforcement History

There is no Code Enforcement record for this property.

Permit History

No building permits for carport found on file.

Zoning History

The subject property is located within the original 36 square miles of the City of San Antonio and zoned “B” Residence District. Under the adoption of the 2001 Unified Development Code, Ordinance 93881 dated May 3, 2001, the “B” Residence zoning district converted to the current “R-4” Residential Single-Family District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-4 H AHOD” Single-Family Residential Monte Vista Historic Airport Hazard Overlay District	Residential

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-5 H AHOD” Single-Family Residential Monte Vista Historic Airport Hazard Overlay District	Residential
South	“R-4 H AHOD” Single-Family Residential Monte Vista Historic Airport Hazard Overlay District	Residential
East	“R-4 H AHOD” Single-Family Residential Monte Vista Historic Airport Hazard Overlay District	Residential
West	“R-4 H AHOD” Single-Family Residential Monte Vista Historic Airport Hazard Overlay District	Residential

Comprehensive Plan Consistency/Neighborhood Association

The subject property is not located within any Sector Plans and currently there is no future land use designation. The subject property is located within the boundaries of the Monte Vista Historical Association. As such, they were notified and asked to comment.

Street Classification

West Summit Avenue is classified as a local street.

Criteria for Review- Carport Setback

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 is contrary to the public interest. The applicant is seeking a variance to allow the carport to be 1'5" away from the side property line which having a 1'2" overhang will leave 3" space between the overhang and side property line. Three inches setback fails to provide adequate fire separation distances, provides no room for maintenance, and may drain water onto adjacent property.

Staff supports a 2' side setback, which would provide adequate room for maintenance and would meet rainwater runoff concerns.

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

Staff cannot find any special conditions that, if enforced literally, would result in any unnecessary hardship. The applicant can make use of the carport, and no special condition is present to warrant a carport of this placement.

The applicant could modify the design proposal to have a 2' side setback for the carport allowing a bit more building separation and the ability for easier maintenance.

2. *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 setback limitation is to prevent fire spread, allow adequate space for maintenance, and encourage proper storm water drainage. The requests to reduce the side setback do not observe the intent of the code.

Staff finds that a 2' side setback would provide adequate space for the carport maintenance and prevent stemware runoff onto adjacent properties.

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

No uses other than those allowed within the district will be allowed with this variance.

4. *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 lesser side setback for the proposed carport. It poses immediate risk to adjacent property and leaves no room for maintenance of the structure.

5. *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 unique circumstances existing on the site. The carport should be designed in a manner that respects the intent of the code.

The property has enough room to move the proposed carport and increase the setback to two feet. The carport would still serve its purpose without any immediate threat of water runoff on adjacent properties.

Alternative to Applicant's Request

Denial of the variance request and special exception would result in the owner having to meet the required carports setback regulations in Section 35-516.

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 privacy of the applicant's property. The applicant is replacing the existing fence which is damaged. 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 the side property lines will provide additional privacy and 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 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 fence regulations of the UDC Sections 35-514.

Staff Recommendation- Carport Setback

Staff recommends **DENIAL** of the variance request with an **ALTERNATE RECOMMENDATION** to allow the carport to be 2' away from the side property line in **BOA-21-10300026** based on the following findings of fact:

1. The requested variance does not provide adequate space to allow stormwater runoff, and long-term

- maintenance, and;
2. The alternate recommendation provides adequate space to allow the carport function and maintain appropriate structure maintenance and prevent stormwater runoff on adjacent properties.

Staff Recommendation- Fence Height

Staff recommends **Approval** of the special exception in **BOA-21-10300026** based on the following findings of fact:

1. The 8' fence will be in line with the existing fence on the side property lines; and
2. The additional height will promote the health, safety, and welfare of the community; and
3. The 8' tall fence along the side property line would keep the character of the permitted 8' tall fence along the rear side alley.