



# City of San Antonio

## Agenda Memorandum

**File Number:**21-4329

**Agenda Item Number:** 1.

**Agenda Date:** 6/21/2021

**In Control:** Board of Adjustment

Case Number:	BOA-21-10300050
Applicant:	Carlos Armando Villela
Owner:	Carlos Armando Villela
Council District:	1
Location:	231 Cliffwood Drive
Legal Description:	Lot 27, Block 2, NCB 10022
Zoning:	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager:	Kayla Leal, Senior Planner

### **Request**

A request for 1) a 3' variance to the minimum 5' side setback, as described in Section 35-310.01, to allow an attached carport with 1' overhang to be 2' from the side property line, and 2) a 1' special exception request from the maximum fence height of 5', as described in Section 35-514, to allow a predominately open front yard fence to be 6' tall.

### **Executive Summary**

The subject property is located along Cliffwood Drive near West Avenue and currently has a single-family home constructed on the property. There is a carport recently built without permits located on the western side of the single-family home that measures 17' 9" in width by 25' in length. Staff measured the carport to be 2' from the post to the fence with 1' of overhang. Additionally, the carport is 7' 5" from the adjacent structure on the abutting lot to the west. Upon the site visit, staff also observed the predominately open front yard fence to be 6' tall, which is resulting in a special exception of 1'.

### **Code Enforcement History**

Building without a permit on November 12, 2019, April 2, 2020, August 13, 2020 and June 11, 2021.

### **Permit History**

Permits have recently been pulled for the renovation of the structure.

### **Zoning History**

The subject property was annexed into the San Antonio City Limits on January 11, 1951, established by Ordinance 13809, and was zoned "A" Temporary Single-Family Residence District. The zoning changed from "A" to "B" Residence District on May 27, 1957, established by Ordinance 25046. Upon adoption of the 2001 Unified Development Code, the zoning converted from "B" to the current "R-4" Residential Single-Family District, established by Ordinance 93881 dated May 3, 2001.

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

Existing Zoning	Existing Use
"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence

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

Orientation	Existing Zoning District(s)	Existing Use
North	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
South	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
East	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
West	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence

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

The subject property is in the Greater Dellview Area Community Plan and is designated "Low Density Residential" in the future land use component of the plan. The subject property is located within the North Central Neighborhood Association and were notified of the case.

### **Street Classification**

Cliffwood Drive is classified as a local road.

### **Criteria for Review - Variances**

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 side setback for an attached carport with a width of 17' 9". The carport is

currently 2' away from the side property line and has 1' of overhang. There is 7' 5" of space between the carport and the adjacent structure.

**Staff is recommending an alternate recommendation of a 2' variance so there will be 8' 5" of space in between which is not contrary to the public interest.**

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

A literal enforcement of the ordinance would result in the applicant in adjusting the carport to be 5' from the side property line. This would result in the width of the carport reducing to 14' 9", which would result in an unnecessary hardship as it would not have much room to fit two cars in the driveway.

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 alternate recommended variance to allow a 2' side setback variance will maintain the spirit of the ordinance to create more space between the carport and the adjacent structure.**

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 the alternate recommendation is granted, the structure and attached carport will maintain three feet of space which is not likely to alter the essential character of the district. There are a few carports in the surrounding area with similar setbacks.**

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 the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property.

### **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 was observed upon the site visit and, if granted, staff finds the 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. A 6' predominately open fence along the front yard on the west side does not pose any adverse effects to the public welfare.**

*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 substantially injure any neighboring 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 front yard fence will not alter the essential character of the district. DSD Traffic Staff did review the fence and it does not violate any Clear Vision Standards.**

*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 and Building Dimensions of the UDC Sections 35-310.01 and the Fence Height Regulations of Section 35-514.

### **Staff Recommendation - Side Setback Variance**

Staff recommends **Denial with an Alternate Recommendation of a 2' variance to the minimum side setback of 5' to allow the attached carport to be 3' away from the side property line with 1' overhang in BOA-21-10300050** based on the following findings of fact:

1. The attached carport will be 3' away from the side property line; and
2. The adjusted carport width will be 16' 9"; and
3. The adjusted carport will be 8' 5" from the structure on the abutting lot to the west.

### **Staff Recommendation - Front Yard Fence Special Exception**

Staff recommends **Approval in BOA-21-10300050** based on the following findings of fact:

1. The front yard fence is predominately open chain link; and
2. The front yard fence is 6' tall; and
3. The front yard fence does not violate any Clear Vision Standards.