



# City of San Antonio

## Legislation Details (With Text)

**File #:** 16-5874

**Type:** Zoning Case

**In control:** Board of Adjustment

**On agenda:** 11/21/2016

**Title:** A-17-007: A request by Katie and Nicolas Carreon for 1) a special exception for a six foot solid fence in the front yard of the property and 2) a request for a variance from the Clear Vision requirements, located at 902 Steubing Oaks. Staff recommends Approval. (Council District 9)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. BOA17-007NPA, 2. A-17-007 Site Plan, 3. A-17-007 PP, 4. A-17-007 Photos

Date	Ver.	Action By	Action	Result
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**Case Number:** A-17-007

**Applicant:** Katie and Nicolas Carreon

**Owner:** Katie and Nicolas Carreon

**Council District:** 9

**Location:** 902 Steubing Oaks

**Legal:** Lot 23, Block 27, NCB 19221

**Description:**

**Zoning:** "NP-10 MLOD ERZD" Neighborhood Preservation Military Lighting Overlay Edwards Recharge Zone District

**Case Manager:** Shepard Beamon, Senior Planner

### Request

A request for 1) a special exception for a six foot solid fence in the front yard of the property, as described in Section 35-514 (d), and 2) a request for a variance from the Clear Vision requirements, as described in Section 35-514 (a).

### Executive Summary

The subject property is located at 902 Steubing Oaks, within the Classen Crest Subdivison. The applicants added a taller fence within the front yard of the property for additional enclosed outdoor space for their family. The applicant states that they live on the corner bend of Steubing Oaks, where many cars speed, unaware of children that may be playing. The rear and side yard of this property is small and the family needs extra space for their three young children. Lastly, the applicant has stated that the community Homeowners Association has approved of the design.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“NP-10 MLOD ERZD” Neighborhood Preservation Military Lighting Overlay Edwards Recharge Zone District	Single-Family Dwelling

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“NP-10 MLOD ERZD” Neighborhood Preservation Military Lighting Overlay Edwards Recharge Zone District	Single-Family Dwelling
South	“NP-10 MLOD ERZD” Neighborhood Preservation Military Lighting Overlay Edwards Recharge Zone District	Single-Family Dwelling
East	“NP-10 MLOD ERZD” Neighborhood Preservation Military Lighting Overlay Edwards Recharge Zone District	Single-Family Dwelling
West	“NP-10 MLOD ERZD” Neighborhood Preservation Military Lighting Overlay Edwards Recharge Zone District	Single-Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The property is within the boundaries of the North Sector Plan and currently designated as Suburban Tier in the future land use component of the plan. The subject property is located within the boundaries of the Woodland Park Neighborhood Association. As such, they were notified and asked to comment.

**Criteria for Review**

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 up to eight (8) feet. The additional fence height is intended to provide safety, security, and privacy of the applicant. Reducing the fence height increases visibility from the street and could result in unnecessary hardship. The additional fence is intended to add additional safety for the family’s young children from vehicular traffic. If granted, this request would be 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 maximum fence heights to protect home owners, and also to provide for a sense of community. A six foot fence was built to provide additional space and safety for the family and their personal property. The six foot fence will serve to provide increased privacy and security of the 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 for the subject property and is highly unlikely to injure adjacent**

**properties. Further, the fence does not obscure the neighboring property's vision from their driveway.**

*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 applicant has provided several examples of homes with six foot fencing. The fencing does not detract from the character of the neighborhood.**

*E. The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district.*

**The purpose of the fencing standards is to protect the health, safety and general welfare of the public, enhance property values, and improve the appearance of the community. The owner wishes to keep the six foot fencing to provide a safe area for their family. Further, the rear and side yard of the property are much smaller than the surrounding homes, as the property is located at the corner bend of the street. Therefore, the requested special exception will not weaken the general purpose of the district.**

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 public interest is represented by Clear Vision requirements to provide safe sight distance for driveways and other motorists. The six foot fence, in its current location does encroach into the 15 foot clearance required by the Clear Vision requirements, however, there is a 10 foot clearance from the fence to the street which provides enough room the homeowner to safely exit their driveway and clearly see oncoming traffic. Staff finds that the request 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 property benefitting from a solid fence no taller three feet tall, which may not provide adequate protection of their young children and property, and could result in an 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 will be observed as the property owners will benefit from privacy similarly enjoyed by others in the neighborhood. Further, the HOA has approved of the design, and the applicant has demonstrated there is adequate visual clearance.**

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

**The requested variances will not authorize the operation of a use on the subject property other than those specifically permitted in the "NP-10 MLOD ERZD" Neighborhood Preservation Military Lighting Overlay Edwards Recharge Zone 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.*

**The requested variance seeks to place fencing along the portions of the property that are with the Clear Vision prohibited area. The fencing does not interfere with the Clear Vision requirements for the adjacent property or street traffic. Further, the fence does not detract from the essential character of 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.*

**The unique circumstance present in this case is the irregular shape of the lot. The property has a smaller rear and side yard, and does not provide space for the owner's family, requiring the family to have many outdoor activities occur in the front yard. This is not the result of the owner and is not merely financial**

**Alternative to Applicant's Request**

Without the requested variance, the fence cannot remain as built.

**Staff Recommendation**

Staff recommends **APPROVAL of both the special exception and variance in A-17-007** based on the following findings of fact:

1. The fence design is common within the community;
2. The fence has been reviewed and approved by the neighborhood HOA;
3. It grants the applicant the same privacy enjoyed by others in the community;
4. It does not visually hinder the adjacent property's driveway or other motorists.