



# City of San Antonio

## Legislation Details (With Text)

**File #:** 17-2712

**Type:** Zoning Case

**In control:** Board of Adjustment

**On agenda:** 4/17/2017

**Title:** A-17-083: A request by Estela Lopez for 1) a special exception to allow a 6 foot fence in a portion of the front yard and 2) a variance from the Clear Vision requirement to allow a fence in a portion of the Clear Vision area, located at 1330 Bayou Drive. Staff recommends Denial. (Council District 4)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. BOA17-083NPA, 2. BOA17-083PP, 3. A-17-083 Site Plan, 4. A-17-083 Photos

Date	Ver.	Action By	Action	Result
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**Case Number:** A-17-083

**Applicant:** Estela Lopez

**Owner:** Estela Lopez

**Council District:** 4

**Location:** 1330 Bayou Drive

**Legal:** Lot 32, Block 59, NCB 15859

**Description:**

**Zoning:** "RM-4 AHOD" Residential Mixed Airport Hazard Overlay District

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

### Request

A request for 1) a special exception to allow a six foot fence in a portion of the front yard, as described in Section 35-514; and 2) a variance from the Clear Vision requirement to allow a fence in a portion of the Clear Vision area, as described in Section 35-514.

### Executive Summary

The subject property is requesting a special exception to allow a six foot wooden privacy fence, nine feet two inches in length, to remain along a portion of the side property line in the front yard. Additionally, three feet of the fence are located within the 15 foot Clear Vision area. The request is a result of a citation by Code Enforcement. According to the applicant, the fence was built to provide additional privacy and protection and to reduce conflict between neighbors.

### Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling
South	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling
East	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling
West	“RM-4 AHOD” Residential Mixed Airport Hazard Overlay District	Single-Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The property is within the boundaries of the West/Southwest Sector Plan and currently designated Suburban Tier in the future land use component of the plan. The subject property is located within the Heritage Neighborhood Association. As such, they were notified and asked to respond.

**Criteria for Review**

**Request for Special Exception**

According to Section 35-482(h) of the UDC, in order for special exception to be granted, 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 purpose of the chapter is to promote uniform and safe development in the City of San Antonio. The fence does neither of these. It is not within character of the neighborhood and poses increased risk of traffic accidents when exiting the driveway.

*B. The public welfare and convenience will be substantially served.*

The public welfare will not be served as the fencing serves no significant purpose to the general public, but merely adds additional screening for the owner from the neighbor.

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

The front yard fence could serve as visual hindrance for the neighboring property when exiting the driveway, becoming a safety hazard for motorists.

*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 fencing will detract from the essential character of the neighborhood as there is only one other property that has six foot fencing in the front yard. Staff could not locate a permit allowing the construction of the neighboring property’s six foot fence in the front yard.

*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. The special exception will weaken the purpose of the chapter as there are other permitted methods of screening to resolve any conflicting issues between neighbors such as landscaping, as seen on other properties within the neighborhood.

### Request for 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. In this case, the public interest is represented by the Clear Vision requirement to promote safe traffic development on residential properties. The fence interfering with the Clear Vision increases risks of traffic accidents and is contrary to the public interest.

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

Staff could not identify any immediate hardship resulting from the fence complying with of the Clear Vision requirement.

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 not be observed as the fence disrupts the character of the neighborhood and serves as a potential safety hazard.

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.*

The variance will not authorize the operation of a use other than those uses specifically authorized in the “RM-4 AHOD” Residential Mixed Airport Hazard Overlay 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 fencing will detract from the essential character of the neighborhood as there is only one other property that has six foot fencing in the front yard. Staff could not locate a permit allowing the construction of the other fence. Additionally, the fence in the Clear Vision area could potentially be a visual obstruction when exiting the driveway for both properties.

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.*

There is no unique circumstance existing on the property that warrants the granting of the variance. There are alternatives, such as landscaping or fencing that meet the height and Clear Vision requirements, that the applicant could use to screen the property.

**Alternative to Applicant's Request**

The applicant must build the fence to meet the allowed fence height and Clear Vision requirement.

**Staff Recommendation**

Staff recommends **DENIAL of the requests in A-17-083** based on the following findings of fact:

1. The special exception will detract from the essential character of the district;
2. The granting of the variance could injure the rights of both the subject and adjacent property owner as the fence obstructs the view when exiting the driveway.