



City of San Antonio

Legislation Details (With Text)

File #: 19-5342

Type: Zoning Case

In control: Board of Adjustment

On agenda: 7/15/2019

Title: BOA-19-10300083: A request for Brittany Mayberry for 1) a special exception to allow a privacy fence gate to be 8' tall on the front yard of the property line, and 2) a variance from the restriction of metal sheeting as a fencing material to allow for its use as fencing, located at 5919 Camino Alturas. Staff recommends Approval. (Council District 8) (Mercedes Rivas, Planner, (210) 207-0215, Mercedes.Rivas2@sanantonio.gov, Development Services Department)

Sponsors:

Indexes:

Code sections:

Attachments: 1. BOA 19-10300083 Attachments

Date	Ver.	Action By	Action	Result
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Case Number: BOA-19-10300083

Applicant: Brittany Mayberry

Owner: Brittany Mayberry

Council District: 8

Location: 5919 Camino Alturas

Legal: Lot 43, Block 35, NCB 16385

Description:

Zoning: "R-6 MLOD-1 MLR-1 AHOD" Residential-Single Family
Camp Bullis Military Lighting Overlay Military Lighting
Region 1 Airport Hazard Overlay District

Case Manager: Mercedes Rivas, Planner

Request

A request for 1) a special exception, as described in Section 35-514, to allow a privacy fence gate to be 8' tall on the front yard of the property line, and 2) a variance from the restriction of metal sheeting as a fencing material, as described in Section 35-514, to allow for its use as fencing.

Executive Summary

The applicant would like permission to keep an automatic metal entry gate, the stone fencing surrounding the gate at 8', and a 7' stucco fence surrounding the stone fencing. The total width of fencing along the front property line will be 56'. The applicant would like permission to construct an 8' fence to provide more privacy and security to the home. Further, the proposed fence height is not out of character with surrounding homes as

multiple homes in this community have 8’ fences. The subject property is surrounded by single family residential properties.

Code Enforcement History

No Code Enforcement history exists on the property.

Permit History

The applicant is waiting for the special exception and variance to be approved to obtain fence permit.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-6 MLOD-1 MLR-1 AHOD” Residential- Single Family Camp Bullis Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Home

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 MLOD-1 MLR-1 AHOD” Residential- Single Family Camp Bullis Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Home
South	“R-6 MLOD-1 MLR-1 AHOD” Residential- Single Family Camp Bullis Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Home
East	“R-6 MLOD-1 MLR-1 AHOD” Residential- Single Family Camp Bullis Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Home
West	“R-6 MLOD-1 MLR-1 AHOD” Residential- Single Family Camp Bullis Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Home

Comprehensive Plan Consistency/Neighborhood Association

The property is not within the boundaries of a neighborhood plan, but it is within the North Sector Plan and is designated as “Country Tier.” The subject property is not located within the boundaries of a neighborhood association.

Street Classification

Camino Alturas is classified as a Local Street.

Criteria for Review

According to Section 35-374.01 of the UDC, in order for a special exception to be granted, the applicant must demonstrate all of the following

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 8'. The additional fence height is intended to provide a more secure and private front yard for the resident. 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 maximum fence heights to protect residential property owners while still promoting a sense of community. The fence height will be built along a portion of the front property line to provide a more secure and private front yard for the resident. This is not contrary to the public interest.

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

No adjacent property owner, nor the traveling public, will be harmed by the proposed fence.

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 8' fence along a portion of the front property line would not significantly alter the overall appearance of the district and would provide added security and protection for the property owner.

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 request is to allow an 8' fence along a portion of the front property line in order to provide a more secure and private front yard for the resident. 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 fence will be built with metal sheeting. The fence enhances aesthetics towards public view and meets the permitted fence height. If granted, this request would be harmony with the spirit and purpose

of the ordinance.

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

Allowing the applicant to construct the 8' metal fence will help create a safe and private environment while enhancing aesthetics. Therefore, the public welfare and convenience will be substantially served.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

Granting the variance will not substantially injure the neighboring properties as the fence will enhance safety and privacy for the subject property and is highly unlikely to injure adjacent properties.

4. *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.*

The variance will not authorize the operation of a use other than those uses specifically authorized in the zoning 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 8' metal fence contributes to the character of the community. The fence will not impose any immediate threat to adjacent 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.*

The unique circumstance in this case is that the new fence was built with a combination of fence materials not exposing the edges of the metal sheeting. It is difficult to establish how the request could harm adjacent owners or detract from the character of the community.

Alternative to Applicant's Request

The applicant would need to adhere to the permitted fence height and materials as described in Section 35-514.

Staff Recommendation

Staff recommends **APPROVAL** of the special exception and variance in **BOA-19-10300083**, based on the following findings of fact:

1. The applicant states the fence is necessary for privacy and security purposes, and;
2. The fence does not visually hinder the adjacent property's driveway or other motorists view.