



City of San Antonio

Legislation Details (With Text)

File #: 17-1128

Type: Zoning Case

In control: Board of Adjustment

On agenda: 1/9/2017

Title: A-17-027: A request by Moonlight Ridge Homeowner's Association for a three foot variance to allow an eight foot tall fence in the front yard, located at 20842 Great Navajo. Staff recommends Approval. (Council District 8)

Sponsors:

Indexes:

Code sections:

Attachments: 1. A-17-027 Attachments

Date	Ver.	Action By	Action	Result
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Case Number: A-17-027

Applicant: Moonlight Ridge Home Owner's Association

Owner: Multiple Owners

Council District: 8

Location: 20842 Great Navajo

Legal: Lots 40, 41, 42, 43, and 44, Block A, NCB 16385

Description:

Zoning: "R-20 MLOD MSAO-1 AHOD" Residential Single-Family
Military Lighting Overlay Military Sound Attenuation Overlay
Airport Hazard Overlay District

Case Manager: Margaret Pahl, AICP, Senior Planner

Request

A request for a three foot variance from the maximum five foot front fence height to allow a predominately open eight foot fence in the front yard.

Executive Summary

The subject property includes several remote large lots served by a public street terminating in a cul-de-sac. Its location at the top of a hill provides expansive views and a dark sky. This location has attracted a group of uninvited visitors who are leaving inappropriate debris on the street. The property owners have formed a Homeowner's Association and created easements around the perimeter of the cul-de-sac in an effort to enhance the security. Their plan is to install cohesive landscaping and fencing with gates at each driveway location. Previously, they had pursued gating the entire cul-de-sac, which is only possible when the street is private and there is an alternative emergency vehicle turn-around. This requirement proved impossible, creating the need for the proposed alternative.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-20 MLOD MSAO-1 AHOD” Residential Single-Family Military Lighting Overlay Military Sound Attenuation Overlay Airport Hazard Overlay District	Single-Family Homes & Vacant Lots

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-20 MLOD MSAO-1 AHOD” Residential Single-Family Military Lighting Overlay Military Sound Attenuation Overlay Airport Hazard Overlay District	Vacant
South	“R-20 MLOD MSAO-1 AHOD” Residential Single-Family Military Lighting Overlay Military Sound Attenuation Overlay Airport Hazard Overlay District	Single-Family Home
East	“R-20 MLOD MSAO-1 AHOD” Residential Single-Family Military Lighting Overlay Military Sound Attenuation Overlay Airport Hazard Overlay District	Single-Family Home
West	“R-20 MLOD MSAO-1 AHOD” Residential Single-Family Military Lighting Overlay Military Sound Attenuation Overlay Airport Hazard Overlay District	Single-Family Home & Vacant

Comprehensive Plan Consistency/Neighborhood Association

The property is located within the boundaries of the North Sector plan area and designated as Rural Estate Tier in the future land use component of the plan. The subject property is not located within the boundaries of a registered Neighborhood Association.

Criteria for Review

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 need for enhanced security around the attractive mountain “lookout”. Therefore, the variance is not contrary to the public interest.

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

Literal enforcement of the ordinance would require that the applicant construct a five-foot tall

predominately open front yard fencing, adequate along residential neighborhood streets. The special condition however is the remote aspect of this location, along with the sinking grade beyond the street edge. This topography makes literal enforcement 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 is the intent of the Code, rather than the strict letter of the law. Front yard fencing is generally limited to open fencing to provide natural surveillance from inside the homes. In this case however, one of the lots is a flag lot, making the home site behind other homes. Other lots are sloping below the street edge, reducing the potential for meeting the intent of the fencing limitation. Therefore the variance observes the spirit.

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 “R-20 MLOD MSAO AHOD” Residential Single-Family Military Lighting Overlay Military Sound Attenuation Overlay 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 proposed fencing is necessary given the remote location. The cul-de-sac created a park-like “overlook” at the expense of private property owners. The fencing and the new home construction will alter this character while respecting private property rights associated with the unique location.

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 plight of the owner and the unique circumstance is due to the remote rural character of this unique location, along with the topography which makes the cul-de-sac the highest portion of the peak.

Alternative to Applicant’s Request

Without the requested variance, the applicant would be required to build a five foot predominately open fence.

Staff Recommendation

Staff recommends **APPROVAL** of the three foot variance as detailed in A-17-027 based on the following findings of fact:

1. The topography is sloping down from the street edge on each of the surrounding lots; and
2. The location is remote and dark with panoramic views of the entire northern edge of the City.