



City of San Antonio

Legislation Details (With Text)

File #: 17-4161
Type: Zoning Case
In control: Board of Adjustment
On agenda: 7/17/2017
Title: A-17-129: A request by Pastor Alcantara for 1) a special exception to allow six foot fencing in the front yard and 2) a special exception to allow eight foot fencing in the rear yard and 3) a variance to allow sheet metal as fencing material, located at 430 F Street. Staff recommends Denial with an Alternate Recommendation. (Council District 2)
Sponsors:
Indexes:
Code sections:
Attachments: 1. BOA17-129 Attachments

Date	Ver.	Action By	Action	Result
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Case Number: A-17-129
Applicant: Pastor Alcantara
Owner: Pastor Alcantara
Council District: 2
Location: 430 F Street
Legal: Lot 2, 3, 4, Block 22, NCB 1557
Description:
Zoning: "R-4" Residential Single-Family District
Case Manager: Shepard Beamon, Senior Planner

Request

A request for 1) a special exception to allow 6 foot fencing in the front yard and 2) a special exception to allow 8 foot fencing in the rear yard and 3) a variance to allow sheet metal as fencing material, all described in Section 35-514.

Executive Summary

The applicant is requesting the special exceptions and variance to allow taller fence heights in the front and rear yard, and to allow sheet metal as a fencing material. The owner failed to obtain a fence permit and was cited by Code Enforcement. The fencing in the front yard is six foot chain link. The rear yard has both eight foot chain link and eight foot fencing composed of sheet metal. The rear property line abuts an undeveloped residential property.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
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"R-4" Residential Single-Family District	Single-Family Dwelling
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Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-4" Residential Single-Family District	Single-Family Dwelling
South	"R-4" Residential Single-Family District	Vacant Residential
East	"R-4" Residential Single-Family District	Single-Family Dwellings, Vacant Residential
West	"R-4" Residential Single-Family District	Single-Family Dwelling, Vacant Residential

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the Arena District/Eastside Community Plan and is currently designated Medium Density Residential under the future land use. The subject property is not located within the boundaries of a registered neighborhood association.

Criteria for Review

According to Section 35-399.03 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 purpose of the chapter is to maintain and increase property values by requiring site appropriate landscaping to be incorporated into development. The taller fence height in the front yard does not create a uniform and open streetscape, therefore, the special exception will not be in harmony.

As the property is currently abutting a large vacant lot along the rear property line, the additional fence height in the rear yard could assist with preventing any unwanted trespassing or criminal activity.

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

The public welfare and convenience will not be served as the taller fence height does not contribute to the enhancement of property values and creates an un-cohesive appearance for the street and neighborhood.

The public welfare and convenience can be served by the added protection of higher rear yard fencing, allowing the owner to protect the subject property and family.

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

The six foot fencing is unlikely to harm the adjacent property; however, it would create a residential environment that is aesthetically unpleasing.

The eight foot fencing in the rear is unlikely to injure the adjacent property as the fencing should not obstruct the adjacent property owner's access to quality light and air.

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 six foot fencing in the front yard sets a negative precedent within the district and alters the character of the district. There are no other properties within the district that have front yard fencing at the requested height.

The eight foot fencing in the rear is less noticeable and is unlikely to significantly alter the essential character of the district.

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 six foot fence in the front yard does not strengthen the general purpose of the regulations established within residential districts as it does not improve the appearance of the community.

However, the requested fencing height of eight feet in the rear yard will safeguard property values and protect private investment. The applicant has stated that their family feels threatened from neighboring properties and the fence provides the added sense of security.

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 prohibitions against certain fencing materials considered inconsistent with neighborhood design. The design is contrary to the public interest in that it breaks the fencing consistency in the neighborhood.

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

Staff was not able to find a property-related special condition that allows for sheet metal fencing on the property. If a permit was sought, staff could have advised on other approaches to achieve a similar result.

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

Granting the requested variance will not result in substantial justice because the material is out of place within this residential community.

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 variance will not authorize the operation of a use on the subject property other than those specifically permitted in the “R-4” Residential Single-Family 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.*

A sheet metal fence is noticeably out of character within this residential community. As constructed, the fence looks less like a fence and more like a wall. Staff finds that this fence does detract from the essential character of the community.

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 did not find any unique circumstance that warrants the granting of the requested variance. Had the applicant have applied for a permit, staff could have assisted with an alternative design that benefits the applicant and the community.

Alternative to Applicant's Request

The applicant could construct a fence with permitted fencing material at the allowed fencing heights.

Staff Recommendation

Staff recommends **DENIAL of a special exception to allow 6 foot fencing in the front yard**, based on the following findings of fact:

1. The taller fence height in the front yard does not create a uniform and open streetscape.
2. There are no other properties within the district that have front yard fencing at the requested height.

Staff recommends **APPROVAL of a special exception to allow 8 foot fencing in the rear yard**, based on the following findings of fact:

1. The additional fence height in the rear yard could assist with preventing any unwanted trespassing, as it abuts a large vacant residential lot.
2. The eight foot fencing in the rear is less noticeable and is unlikely to significantly alter the essential character of the district.

Staff recommends **DENIAL a variance to allow sheet metal as fencing material**, based on the following findings of fact:

1. There are no unique circumstances existing on the property that warrant the granting of the requested variance.
2. The design breaks the fencing consistency within the residential neighborhood.