



City of San Antonio

Legislation Details (With Text)

File #: 19-3025
Type: Zoning Case
In control: Board of Adjustment
On agenda: 4/1/2019
Title: BOA-19-10300024: A request by Mark Bennett for 1) a special exception to allow a privacy fence to be 8' tall on both side property lines and, 2) a variance from the restriction against corrugated metal as a fencing material to allow for the use of corrugated metal fencing, located at 109 Playmoor Street. Staff recommends Approval. (Council District 1)
Sponsors:
Indexes:
Code sections:
Attachments: 1. BOA-19-10300024 Attachments

Date	Ver.	Action By	Action	Result
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Case Number: BOA-19-10300024
Applicant: Mark Bennett
Owner: Mark Bennett
Council District: 1
Location: 109 Playmoor Street
Legal: Lot 8, NCB 6858
Description:
Zoning: "C-3 NCD-1 AHOD" General Commercial South Presa /
South St. Mary's Streets Neighborhood Conservation Airport
Hazard Overlay District
Case Manager: Debora Gonzalez, Senior Planner

Request

A request for 1) a special exception, as described in Section 35-514, to allow a privacy fence to be 8' tall on both side property lines and, 2) a variance from the restriction against corrugated metal as a fencing material, as described in Section 35-514, to allow for the use of corrugated metal fencing.

Executive Summary

The subject property is located at 109 Playmoor Street, approximately 100 feet west of South Presa Street. The applicant wishes to keep an 8' tall fence constructed of solid wood and corrugated metal within the both sides of the property. The applicant built the fence without first obtaining a permit. The applicant states that he had a need for increased security and privacy which warrants the additional fence height.

Code Enforcement History

No Code Enforcement history exists on the property.

Permit History

The applicant is waiting for variances to be approved to obtain fence permit.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"C-3 NCD-1 AHOD" General Commercial South Presa / South St. Mary's Streets Neighborhood Conservation Airport Hazard Overlay District	Yoga Studio

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"C-3NA NCD-1 AHOD" General Commercial South Presa / South St. Mary's Streets Neighborhood Conservation Airport Hazard Overlay District	Coffee Shop
South	"C-3NA NCD-1 AHOD" General Commercial South Presa / South St. Mary's Streets Neighborhood Conservation Airport Hazard Overlay District	Vacant Land
East	"C-3 NCD-1 AHOD" General Commercial South Presa / South St. Mary's Streets Neighborhood Conservation Airport Hazard Overlay District	Vacant Land
West	"C-3 NCD-1 AHOD" General Commercial South Presa / South St. Mary's Streets Neighborhood Conservation Airport Hazard Overlay District	Vacant Building

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the Lavaca Neighborhood Plan and currently designated as "Mixed Use" in the future land use component of the plan. The subject property is located within the boundaries of the Lavaca Neighborhood Association. As such, they were notified and asked to comment.

Street Classification

Playmoor Street is classified as a Local Street.

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 fence was built with solid wood framing the corrugated metal. 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 keep the 8' corrugated 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' corrugated 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 corrugated metal. 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 variance in **BOA-19-10300024**, 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.