



# City of San Antonio

## Legislation Details (With Text)

**File #:** 19-3918

**Type:** Zoning Case

**In control:** Board of Adjustment

**On agenda:** 5/6/2019

**Title:** BOA-19-10300048: A request by Justin Petersburg for a variance from the requirement that a 6' tall solid screen fence be provided between commercial and residential properties to allow a 6' tall wrought iron fence to remain, located at 315 North General McMullen Drive. Staff recommends Approval. (Council District 5) (Mercedes Rivas, Planner, (210) 207-0215, Mercedes.Rivas2@sanantonio.gov, Development Services Department)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. BOA-19-10300048 Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** BOA-19-10300048

**Applicant:** Justin Petersburg

**Owner:** O'Reilly Auto Parts, LLC

**Council District:** 5

**Location:** 315 North General McMullen Drive

**Legal:** Lot 25, Block 1, NCB 9024

**Description:**

**Zoning:** "C-3 MLOD-2 MLR-2 AHOD" General Commercial  
Lackland Military Lighting Overlay Military Lighting  
Region 2 Airport Hazard Overlay District

**Case Manager:** Mercedes Rivas, Planner

### Request

A request for a variance, as described in Section 35-514, from the requirement that a 6' tall solid screen fence be provided between commercial and residential properties to allow a 6' tall wrought iron fence to remain.

### Executive Summary

The subject property is located at 315 N General McMullen Drive. The applicant wishes to keep a 6' tall wrought iron fence between the commercial and residential properties. The owner of the residential property directly adjacent to the subject property requested that the wrought iron fence be built instead of the solid screen fence required by code.

### **Code Enforcement History**

No Code Enforcement history exists on the property.

### **Permit History**

The applicant is waiting for variances to be approved to obtain a complete building permit and to obtain a Certificate of Occupancy as the owner is operating on a temporary Certificate of Occupancy.

### **Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“C-3 MLOD-2 MLR-2 AHOD” General Commercial Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	O’Reilly Auto Parts

### **Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“C-3 MLOD-2 MLR-2 AHOD” General Commercial Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Drainage Ditch
South	“C-3R MLOD-2 MLR-2 AHOD” General Commercial Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Gym Parking Lot
East	“C-2CD MLOD-2 MLR-2 AHOD” General Commercial Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Auto Shop
West	“R-5 MLOD-2 MLR-2 AHOD” Residential District Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Home

### **Comprehensive Plan Consistency/Neighborhood Association**

The property is within the boundaries of the West Sector Plan and is currently designated as “General Urban Tier” in the future land use component of the plan. The subject property is not located within the boundaries of a Neighborhood Association.

### **Street Classification**

North General McMullen Drive is classified as an Arterial.

### **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 wrought iron. 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 6' tall wrought iron fence will help create a safe 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 6' tall wrought iron 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 owner of the residential property directly adjacent to the subject property requested that the wrought iron fence remain instead of the solid screen fence required by code.**

### **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-19-10300048**, based on the following findings of fact:

1. The fence does not visually hinder the adjacent property's driveway or other motorists view.