



# City of San Antonio

## Legislation Details (With Text)

**File #:** 20-2338

**Type:** Staff Briefing - Without Ordinance

**In control:** Board of Adjustment

**On agenda:** 3/2/2020

**Title:** (Continuance from 02/17/2020) BOA-19-10300156: A request by Yma Luis for a request for 1) a variance from the restriction of corrugated metal as a fencing material to allow for its use as a fencing material and 2) a variance from the Clear Vision standards to allow a fence to be within the Clear Vision field, located at 1638 Santa Monica Street. Staff recommends Denial. (Council District 1) (Kayla Leal, Senior Planner, (210) 207-0197, kayla.leal@sanantonio.gov, Development Services Department)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** BOA-19-10300156

**Applicant:** Yma Luis

**Owner:** Yma Luis

**Council District:** 1

**Location:** 1638 Santa Monica St

**Legal:** Lot 1, Block 34, NCB 8840

**Description:**

**Zoning:** "R-4 AHOD" Residential Single Family Airport Hazard Overlay District

**Case Manager:** Kayla Leal, Senior Planner

### Request

A request for 1) a variance from the restriction of corrugated metal, described in Section 35-514, as a fencing material to allow for its use as fencing and 2) a variance from the Clear Vision Standards, described in Section 35-514, to allow a fence to be within the Clear Vision field.

### Executive Summary

The subject property is a single family home at the southwest corner of Santa Monica Street and Buckeye Street. The property is a corner lot and an alley abuts the South property line. The property owner obtained a permit in June of 2018 to construct a wood fence that was up to 6' tall and not encroaching into the clear vision field. The fence that was constructed included wood and metal and encroaches into the clear vision field along

the side property line and along the alley. The property owner received a citation for the violations, and as a result is requesting these variances. The property owner states they were unaware of the metal restriction as the permits were pulled by the contractor. Upon visit to the property staff noticed that the fence is entirely solid and there is a driveway along the South side of the property. The fence along the West side of the property is 9'7" from the street. The alley is 10' wide, maintained, and appears to be regularly used.

### **Code Enforcement History**

There is no code enforcement history on file for the fence.

### **Permit History**

6/12/2018: Fence permit issued for a 6ft wood fence along side and rear yards not to be within Clear Vision Field

### **Zoning History**

The subject property was annexed into the City of San Antonio by Ordinance 1845 dated May 13, 1940 as "B" Apartment District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 3, 2001, the property zoned "B" Apartment district was converted to "R-4" Residential Single Family District.

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

<b>Existing Zoning</b>	<b>Existing Use</b>
"R-4 AHOD" Residential Single Family Airport Hazard Overlay District	Single family residence

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

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	"R-4 AHOD" Residential Single Family Airport Hazard Overlay District	Single family residence
South	"R-4 AHOD" Residential Single Family Airport Hazard Overlay District	Single family residence
East	"R-4 AHOD" Residential Single Family Airport Hazard Overlay District	Single family residence
West	"R-4 AHOD" Residential Single Family Airport Hazard Overlay District	Single family residence

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

The subject property is in the Near Northwest Plan and designated as "Urban Low Density Residential" in the future land use component of the plan. The subject property is in the boundaries of the Los Angeles Heights Neighborhood Association and as such, they were notified of the case.

### **Street Classification**

Santa Monica 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 variance is contrary to the public interest as the fence was built partially with restricted material. The use of corrugated metal fence is inconsistent with the neighborhood design and is immediately noticeable from the street.

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

Staff cannot find any special conditions that, if enforced, would result in an unnecessary hardship. The applicant was advised of the restriction for the clear vision and the material at the time the permit was issued.

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 defined as the intent of the code, rather than the exact letter of the law. The intent of the material limitation is to preserve appropriate design consistent with the surrounding community, which is not observed by the current design of the fence.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the zoning district in which the variance is located.*

No uses other than those allowed within the district will be allowed with this variance.

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 fence is noticeably out of character within the community. There are few solid fences in this neighborhood that are encroaching into the clear vision field. The clear vision encroachment also impacts alleyway users which is an injury of adjacent property.

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 does not find any unique circumstances that warrant the granting of this request. The applicant was informed at the time of the permit of the material and clear vision issues but did not abide by the requirements of the permit.

### **Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the lot size requirements of the UDC section 310.01 or to rezone the property to a district that allows that lot size.

**Staff Recommendation**

Staff recommends **DENIAL** of the special exception in **BOA-19-10300156** based on the following findings of fact:

1. The fence is noticeably out of character with the community.
2. The solid portion of the fence obstructs the clear vision standards of the driveway.
3. There are no unique circumstances that warrant the material use or violation of clear vision field.