



# City of San Antonio

## Legislation Details (With Text)

**File #:** 20-3594

**Type:** Staff Briefing - Without Ordinance

**In control:** Board of Adjustment

**On agenda:** 6/15/2020

**Title:** BOA-20-10300027: A request by Maria E. Shoults 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 special exception to allow a solid screen fence to be up to 7' tall in the front yard, located at 8390 North Verde Drive. Staff recommends Denial. (Council District 7) (Kayla Leal, Senior Planner (210) 207-0197, [kayla.leal@sanantonio.gov](mailto: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-20-10300027

**Applicant:** Maria E. Shoults

**Owner:** Maria E. Shoults

**Council District:** 7

**Location:** 8390 North Verde Drive

**Legal Description:** Lot 41, NCB 18294

**Zoning:** "R-6" Residential Single-Family District

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

### Request

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, described in Section 35-514 and 2) a special exception to allow a solid screen fence to be up to 7' tall in the front yard.

### Executive Summary

The subject property is located on the corner of Bandera Road and North Verde Drive, just north of O.P. Schnabel Park. There is currently an existing single-family residential structure on the property and toward the rear there is an advertisement billboard. The request is to allow corrugated metal as a fencing material because the applicant has a 7' tall corrugated metal fence along the side property line and a 6' tall corrugated metal fence along the rear property line. The surrounding area include predominately single-family residential uses and across Bandera Road there is an existing apartment complex. Additionally, there is a section of fence which stretches past the front façade of the residential structure. The applicant is requesting a special exception to the

height of the fence that is placed in the front yard.

### **Code Enforcement History**

There is an open code enforcement case initiated on December 10, 2019 for a metal fence being installed without a permit and a metal shipping container in the rear yard.

### **Permit History**

There are no relevant permits related to the subject property due to the fence being installed without a permit.

### **Zoning History**

The subject property was annexed into the City of San Antonio by Ordinance 79039 dated December 31, 1993 as “R-1” Single Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May, 03, 2001, the property zoned “R-1” Single Family Residence District converted to the current “R-6” Residential Single-Family District.

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

| Existing Zoning                               | Existing Use            |
|---|-------------------------|
| “R-6 AHOD” Residential Single Family District | Single family residence |

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

| Orientation | Existing Zoning District(s)              | Existing Use              |
|-------------|--|---------------------------|
| North       | “R-6” Residential Single Family District | Single family residential |
| South       | “R-6” Residential Single Family District | O.P. Schnabel Park        |
| East        | “R-6” Residential Single Family District | Single family residential |
| West        | “C-2” Commercial District                | Apartment Complex         |

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

The subject property is in the Huebner/Leon Creek Neighborhood Plan and designated as “Low Density Residential Estate” in the future land use component of the plan. The subject property is in the boundaries of the Verde Hills HOA and as such, they were notified of the case.

### **Street Classification**

North Verde Drive is classified as a local street, and Bandera Road is classified as a Primary Arterial street.

### **Criteria for Review - Variance for Fencing Material**

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 constructed with restricted material. The use of

corrugated metal fence is inconsistent with the neighborhood design and is immediately noticeable from Bandera Road. The variance would also permit the portion of fence that splits the lot in half, which is unprotected.

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 is able to place a 7' solid wood fence to screen the property from Bandera Road.

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. Although Bandera Road consists of some commercial uses, this particular section is adjacent to O.P. Schnabel Park and residential uses. The variance would alter the essential character of the district in which it is located.

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. Even though the fence screens the property from Bandera Road, a solid wooden fence would serve the same purpose.

### **Criteria for Review - Special Exception for Fence Height**

According to Section 35-482(h) 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 UDC states the Board of Adjustment can grant a special exception for a fence height modification up to seven feet. The additional fence height is intended to provide security and privacy of the applicant's property due to its location adjacent to Bandera Road, however the applicant is permitted by-right 5' predominately open fencing which is already in place using wrought iron and brick past the 7' fence.

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

In this case, these criteria are represented by maximum fence heights to protect residential property owners while still promoting a sense of community. A 7' tall corrugated metal fence in the front yard is excessive and will not substantially serve the public welfare.

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

Staff determined during the site visit that a portion of the fence is unprotected corrugated metal, which could potentially cause injury.

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.*

A portion of the front yard fencing is predominately open wrought iron and brick and the portion requesting the special exception is 7' and corrugated metal. The additional height requested does alter the essential character of the district and is not recommended.

E. *The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district.*

The current zoning permits the current use of a single-family home. The requested special exception will not weaken the general purpose of the district.

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

The alternative to the applicant's request is to conform to the fencing material regulations of the UDC Section 35-514.

### **Staff Recommendation**

Staff recommends **DENIAL** of the variance and the special exception in **BOA-20-10300027** based on the following findings of fact:

1. The corrugated metal as a fencing material is noticeably out of character with the surrounding area; and
2. A portion of the corrugated metal fence is currently unprotected; and
3. A solid, wooden, 7-foot fence is permitted by-right on the side property line along Bandera Road.