



# City of San Antonio

## Legislation Details (With Text)

**File #:** 21-1312

**Type:** Staff Briefing - Without Ordinance

**In control:** Board of Adjustment

**On agenda:** 2/1/2021

**Title:** BOA-20-10300139: A request by Angel Martinez for 1) a special exception to allow a fence to be 6' 4" tall in the front yard, 2) a variance to allow corrugated metal as a fencing material, and 3) a 4' 8" variance from the minimum Clear Vision requirement of 15' to allow a front yard fence to be 10' 4" from the street, located at 3027 Nantucket Drive. Staff recommends Approval. (Council District 9) (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-20-10300139
Applicant:	Angel Martinez
Owner:	Angel Martinez
Council District:	9
Location:	3027 Nantucket Drive
Legal Description:	Lot 22, Block 8, NCB 14210
Zoning:	"R-6" Residential Single-Family District
Case Manager:	Kayla Leal, Senior Planner

### Request

A request for 1) a special exception from the fence height regulations, as described in Section 35-514, to allow a fence to be 6' 4" tall in the front yard 2) a variance to allow corrugated metal as a fencing material, as described in Section 35-514, and 3) a 4' 8" variance from the minimum Clear Vision requirement of 15', as described in Section 35-514, to allow a front yard fence to be 10' 4" from the street.

### Executive Summary

The subject property is located on Nantucket Drive and is directly abutting a drainage ditch. The applicant installed a solid-screened fence in the front yard to provide more security for their children since the front yard is exposed to the sunken drainage ditch. The fence is 6' 4" tall and has a corrugated metal gate, with protected borders on top and bottom. Code Enforcement contacted the applicant because a fence permit was not pulled.

Development Services Traffic reviewed the request and has stated the proposed layout has enough sight intersection distance and the traffic team does not see any clear vision issues. However, regarding the proposed gate, it does need to be evaluated in the future if vehicular traffic is seen jumping the existing curb.

### **Code Enforcement History**

There is an open code enforcement violation case for building without a permit, filed November 17, 2020.

### **Permit History**

There are no relevant permits pulled for the property.

### **Zoning History**

The subject property was annexed into the City of San Antonio on May 27, 1971 by Ordinance 39443 and was zoned Temporary “R-1” One-Family Residence District. The zoning converted from Temporary “R-1” to the current “R-6” Residential Single-Family District upon adoption of the 2001 Unified Development Code (Ordinance 93881, dated May 3, 2001).

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

Existing Zoning	Existing Use
“R-6” 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 Residence
South	“R-6” Residential Single-Family District	Single-Family Residence
East	“R-6” Residential Single-Family District	Single-Family Residence
West	“R-6” Residential Single-Family District	Single-Family Residence

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

The subject property is in the North Sector Plan and is designated “Suburban Tier” in the future land use component of the plan. The subject property is located within the Vance Jackson Neighborhood Association and were notified of the case.

### **Street Classification**

Nantucket Drive is classified as a Local Road.

### **Criteria for Review - 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 requested special exception to increase the front yard fence height is intended to provide safety and security of the applicant’s property. The special exception, if granted, would be in harmony with the**

**spirit and purpose of the ordinance.**

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

**In this case, these criteria are represented by fence heights to protect residential property owners while still promoting a sense of community. A 6' 4" front yard fence on one side of the property will provide additional security for the applicant's property. This is not contrary to the public interest as it is not adjacent to a neighboring property.**

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

**The front yard fence is located on the northern side of the front yard, which is directly abutting a drainage ditch. The fence will create enhanced security and privacy for the subject property and is unlikely to injure adjacent properties.**

*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 additional height for the front yard fence will not alter the essential character of the district and will provide security 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 current zoning permits the current use of a single-family home. The requested special exception will not weaken the general purpose of the district.**

#### **Criteria for Review - Variance**

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 request is for the corrugated metal gate and the clear vision encroachment. The corrugated metal is only used for the gate and has protected edges, which is not contrary to the public interest. DSD Traffic does not have issues with the clear vision encroachment, so long as vehicular traffic does not begin using it as access without a curb cut.**

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

**Staff finds that any special conditions that, if enforced, would result in an unnecessary hardship. A 3' solid screened fence in the front yard does not seem to provide adequate safety in this case, so a literal enforcement would result in unnecessary hardship.**

*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. With the front yard fence being installed on one side of the property, the spirit of the ordinance will be observed and substantial justice will be done.**

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 request to use corrugated metal for the gate and encroach into the 4' 8" into the clear vision does not seem likely to alter the essential character of the district.**

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 finds that the applicant is requesting the variance to add security and safety to the property due to being directly adjacent to a drainage ditch. The unique circumstances existing on the property were not created by the owner of the property and are not merely financial.**

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

The alternative to the applicant's request is to conform to the Fence Regulations of the UDC Sections 35-514.

#### **Staff Recommendation - Fence Special Exception**

Staff recommends **Approval** in **BOA-20-10300139** based on the following findings of fact:

1. The fence will be 6' 4" tall in the front yard; and
2. The additional height will promote the health, safety, and welfare of the community.

#### **Staff Recommendation - Variance**

Staff recommends **Approval** in **BOA-20-10300139** based on the following findings of fact:

3. The fence will remain 10' 4" from the edge of the curb.
4. The corrugated metal has protected edges; and
5. The corrugated metal is only used for the gate.