



# City of San Antonio

## Legislation Details (With Text)

**File #:** 21-2029

**Type:** Staff Briefing - Without Ordinance

**In control:** Board of Adjustment

**On agenda:** 3/15/2021

**Title:** BOA-21-10300002: A request by Bexar Engineers & Associates for 1) a special exception to allow the front fence to be 6'4" tall, 2) a 7'8" variance from the minimum 15' Clear Vision field requirement to allow the front yard fence to be 7'4" away from the street, 3) zoning variances from the Accessory Detached Dwelling Unit requirements to allow a) a roof pitch not identical to the principal residence, and b) the parking space to be located within the front yard, located at 1014 West Hermosa Drive. Staff recommends Denial with an Alternate Recommendation. (City Council District 1) (Azadeh Sagheb, Planner (210) 207-5407, Azadeh.Sagheb@sanantonio.gov, Development Services Department)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Attachments

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

**Case Number:** BOA-21-10300002

**Applicant:** Bexar Engineers & Associates

**Owner:** Esperanza Galaviz

**Council District:** 1

**Location:** 1014 West Hermosa Drive

**Legal Description:** Lot 7, Block 107, NCB 7205

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

**Case Manager:** Azadeh Sagheb, Planner

### Request

A request for 1) a special exception, as described in Section 35-514, to allow the front fence to be 6'4" tall, 2) a 7'8" variance from the minimum 15' Clear Vision field requirement, also described in Section 35-514, to allow the front yard fence to be 7'4" away from the street, 3) zoning variances from the Accessory Detached Dwelling Unit requirements, as described in Section 35-371, to allow a) a roof pitch not identical to the principal residence, and b) the parking space to be located within the front yard.

### Executive Summary

The subject property is located at 1014 West Hermosa Drive, west of Blanco Road and North of West

Hildebrand Avenue. The neighborhood is predominantly surrounded by Single-family residential units. The applicant has installed a 5'3" tall wrought Iron fence along the side and front property line and an automatic sliding driveway gate which is 6'4" tall.

The applicant submitted an application to pull a permit to build an accessory dwelling unit in the rear yard. The DSD Building Review staff denied the proposed drawings twice. The applicant started to construct the ADDU without obtaining an approved permit. The ADDU is a 2-story structure with one bedroom on the second floor, measuring 368 square feet which meets the Code's square footage and total floor area requirement. Per section 35-371 (b) when building an ADDU, the roof pitch and window proportions have to be identical to that of the principal residence. In this case, the primary building has a gable roof but the ADDU was built with a shed roof. Code also requires the ADDU parking space to be located behind the front yard and the applicant is also requesting for a variance to use the existing parking area located within the front yard.

DSD Traffic Engineering staff reviewed the Clear Vision request and approved it as the proposed layout and fence height does not seem to pose any sight constraints.

### **Code Enforcement History**

There is no Code Violation on record.

### **Permit History**

The applicant applied for a permit to build an accessory dwelling unit that was denied on 7/16/2020 and 12/7/2020.

### **Zoning History**

The subject property was annexed into the City of San Antonio on May 13, 1940 by Ordinance 1845 and was originally zoned "B" Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned "B" Residence District converted to the current "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 Dwelling

### **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 Dwelling
South	"R-4 CD AHOD" Residential Single-Family Airport Hazard Overlay District with a Conditional Use for an Assisted Living Facility with no more than 12 residents.	Single-Family Dwelling

East	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
West	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

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

The subject property is within the boundaries of the Greater Dellview Area Plan and currently designated as "Low Density Residential" in the future land use component of the plan. The subject property is located within the boundaries of Central Los Angeles Heights Neighborhood Association. As such, they were notified and asked to comment.

### **Street Classification**

West Hermosa is classified as a local street.

### **Criteria for Review- Fence/Gate 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. The additional height is related to the ornamental sliding driveway gate. If granted, this request 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. The wrought iron fence within the front yard is predominantly open and will provide additional security for the applicant's property. This is not contrary to the public interest.**

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

**The material and style of the gate is similar to other fences used in the neighborhood. The neighboring property will not be substantially injured.**

*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 fencing does not detract from the character of the neighborhood. The fencing is in line with other preexisting fencing within the immediate vicinity.**

*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- Clear Vision & Parking Space**

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, given fence placement, the variance to Clear Vision is not contrary to the general health and safety of passersby as the fence is 7'4" away from the street and vision is not limited when exiting the property.**

**The requested variance to allow the ADDU parking space to be within the front yard is not contrary to the public interest as there exists enough parking space in the front yard.**

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

**Staff finds that a literal enforcement would create an 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 the intent of the code, rather than the strict letter of the law. The intent of the Clear Vision is to increase visibility when entering/exiting properties and limit harm to passersby. Approving the placement of the fence as is within the Clear Vision would not decrease visibility and would not increase harm to passersby.**

**There is adequate space available in the front yard to accommodate two cars that can be used as parking space for the accessory detached dwelling unit.**

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 clear vision variance would not substantially injure the appropriate use of adjacent properties. The request to have lesser clear vision does not seem to pose any sight constraints.**

**The existing parking area could be utilized to provide parking space for the ADDU resident.**

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 the type of material being a predominantly open fence and its distance from the curb warrant the granting of the requested variance to reduce the clear vision.**

**Staff supports granting a variance to allow front property parking to be used for the accessory detached dwelling unit as there is adequate space available.**

#### **Criteria for Review- ADDU Roof Pitch**

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, given the ADDU roof pitch, the requested variance is contrary to the public interest as the constructed structure is out of**

character for the primary residence and surrounding neighborhood.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*  
There are no special conditions that would result in unnecessary hardship. If the property owner came in to obtain the permit prior to construct the accessory dwelling unit, staff could have advised on alternate designs which did not violate the UDC standards.
3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*  
Since there are no other properties within the immediate vicinity built an accessory dwelling unit with different architectural roof pitches, uniformity and cohesion of community will be distracted.
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.*  
The requested variance will not permit a use not authorized within the “R-4” Residential Single-Family 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 variance would substantially alter the essential character of the district in which the property is located as the architectural design and appearance of the ADDU is not in harmony with the principal residence.
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 could not find any unique circumstances that warrant the granting of the requested variance. If applicant applied for a permit, staff could have assisted with an alternative design that benefits the applicant and the community. Altering the existing shed roof design to a gable roof would bring the structure into compliance with the primary residence and surrounding neighborhood.

### **Alternative to Applicant’s Request**

Denial of the request would result in the owner having to meet the required fence height regulations in Sections 35-514, and 35-371.

### **Staff Recommendation- Fence/Gate Height**

Staff recommends **APPROVAL** of **BOA-21-10300002** based on the following findings of fact:

1. The taller predominantly open gate is not out of character with the surrounding neighborhood.

### **Staff Recommendation- Clear Vision & Parking Space**

Staff recommends **Approval** of **BOA-21-10300002** based on the following findings of fact:

1. There is enough parking space in the front yard that can be used by the ADDU occupant, and;
2. A lesser clear vision area will not cause traffic hazards.

**Staff Recommendation- ADDU Roof Pitch**

Staff recommends **DENIAL of BOA-21-10300002** based on the following findings of fact:

1. The constructed accessory dwelling unit roof design is out of character in the neighborhood, and;
2. The ADDU is highly likely to be noticed from the right-of-way as it is two story.