



# City of San Antonio

## Legislation Details (With Text)

**File #:** 21-4489  
**Type:** Staff Briefing - Without Ordinance  
**In control:** Board of Adjustment

**On agenda:** 6/21/2021

**Title:** BOA-21-10300053: A request by Daniel Dalcais for 1) a 3' special exception request from the maximum fence height to allow a privacy fence to be 8' tall within the front yard and 2) a 4' variance to the minimum 15' clear vision standard to allow a front yard fence to be 11' away from the street, located at 1014 River Park. Staff recommends Denial. (Council District 9) (Azadeh Sagheb, Senior Planner (210) 207-5407, Azadeh.Sagheb@sanantonio.gov, Development Services Department)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Attachment

Date	Ver.	Action By	Action	Result
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**Case Number:** BOA-21-10300053  
**Applicant:** Daniel Dalcais  
**Owner:** Daniel Dalcais  
**Council District:** 9  
**Location:** 1014 River Park  
**Legal Description:** Lot 8, Block 5, NCB 17158  
**Zoning:** "PUD R-6 MLOD-1 MLR-2 AHOD" Planned Unit Development Residential Single-Family Camp Bullis Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District  
**Case Manager:** Azadeh Sagheb, Senior Planner

### Request

A request for 1) a 3' special exception from the maximum fence height, as required in Sec 35-514, to allow a privacy fence to be 8' tall within the front yard and 2) a 4' variance to the minimum 15' clear vision standard, as required in Sec 35-514, to allow a front yard fence to be 11' away from the street.

### Executive Summary

The subject property is located on River Park Street, northwest side of San Antonio International Airport. The applicant built a 6'3" tall wooden fence within the front yard that has 8' tall posts without obtaining a permit and there is a code violation on record for the installed fence.

UDC allows for a solid screen fence to be a maximum of 3’ in height or a predominately open fence to be a maximum of 5’ and the applicant is requesting a special exception of the fence height. The fence is 11’ away from the street and the applicant is also requesting a 4’ variance to the minimum 15’ clear vision filed requirement.

During the field visit, staff did not find similar cases within the community.

**Code Enforcement History**

There is a code violation dated 04/09/2021 on file for building fence without a permit.

**Permit History**

There is no relevant permit pulled for the subject property.

**Clear Vision Review**

The fence placement does not create a clear vision obstruction.

**Zoning History**

The property was annexed into the City of San Antonio by Ordinance 52125, dated May 28, 1980 and was originally zoned as “P-1 R-1” Planned Unit Development Single-Family Residence District. The subject property was converted to the current “PUD R-6” Planned Unit Development Residential Single-Family District with the adoption of the 2001 Unified Development Code (UDC), established by Ordinance 93881, on May 3, 2001.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
"PUD R-6 MLOD-1 MLR-2 AHOD" Planned Unit Development Residential Single-Family Camp Bullis Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Residential

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	"PUD R-6 MLOD-1 MLR-2 AHOD" Planned Unit Development Residential Single-Family Camp Bullis Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Residential

South	"PUD R-6 MLOD-1 MLR-2 AHOD" Planned Unit Development Residential Single-Family Camp Bullis Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Residential
East	"PUD R-6 MLOD-1 MLR-2 AHOD" Planned Unit Development Residential Single-Family Camp Bullis Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Residential
West	"PUD R-6 MLOD-1 MLR-2 AHOD" Planned Unit Development Residential Single-Family Camp Bullis Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Residential

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is located within the San Antonio International Airport Vicinity Sector Plan and is designated as “Low-Density Residential” in the future land use component of the plan. The subject property is within the boundaries of the Riverbend of Camino Real Neighborhood Association and as such they were notified.

**Street Classification**

River Park Street is classified as a local street.

**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.*

There are no other properties within the vicinity that installed similar fencing within the front yard. The requested special exception if granted, would not be in harmony with the spirit and purpose of the ordinance.

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

In this case, 6’3” tall privacy wooden fence with 8’ tall posts is out of character within this neighborhood. This is contrary to the public interest.

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

The material and style of the fence distracts the character of community. The subject fence is noticeable from the right-of-way and highly likely 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 constructed tall privacy fencing does detract from the character of the neighborhood. During the site visit, staff did not find any fencing to be similar in style, height and placement 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 requested special exception will set a precedent within the neighborhood and will weaken the general purpose of the district.

### **Criteria for Review - Variance Request for Clear Vision Field**

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 contrary to the general health and safety of passersby as vision is limited when entering and/or exiting the property.

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

Staff finds that a literal enforcement would not result in unnecessary hardship. The applicant could reach out to staff to discuss and explore appropriate alternates.

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/existing properties and limit harm to passersby. Approving the placement of the fence as is within the Clear Vision would decrease visibility and would cause harm to passersby.

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 current 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 clear vision variance would substantially injure the appropriate use of adjacent properties. The approval of lesser Clear Vision does not seem to pose sight constraints but is out of character from the neighborhood.

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 was not able to find any unique circumstances to support the requested variance to reduce the clear vision.

**Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the required fence height and clear vision regulations in Section 35-514.

**Staff Recommendation**

Staff recommends **Denial** of **BOA-21-10300053** of the requested Special Exception based on the following findings of fact:

1. The material, style and height of the subject fence is entirely out of character in the neighborhood.

**Staff Recommendation**

Staff recommends **Denial** of **BOA-21-10300053** of the requested Clear vision Variance based on the following findings of fact:

1. The requested variance to reduce the clear vision area will decrease the visibility.