



# City of San Antonio

## Legislation Details (With Text)

**File #:** 21-5160

**Type:** Staff Briefing - Without Ordinance

**In control:** Board of Adjustment

**On agenda:** 8/16/2021

**Title:** BOA-21-10300091: A request by Maria & Vicki Lira for a variance from the permitted fencing material to allow a corrugated metal fence, located at 3002 Briarfield Drive. Staff recommends Denial. (Council District 1) (Roland Arsate, Planner (210) 207-3074, Roland.Arsate@sanantonio.gov, Development Services Department)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Attachments

Date	Ver.	Action By	Action	Result
Case Number:	BOA-21-10300091			
Applicant:	Maria & Vicki Lira			
Owner:	Maria & Vicki Lira			
Council District:	1			
Location:	3002 Briarfield Drive			
Legal Description:	Lot 18, Block 23, NCB 13410			
Zoning:	"R-5" Residential Single-Family District			
Case Manager:	Roland Arsate, Planner			

### Request

A request for a variance from the permitted fencing material, as described in Section 35-514, to allow a corrugated metal fence along the side property line.

### Executive Summary

The subject property is located on the 3000 block of Briarfield Drive. The request is for a variance to the fence material being used along the side property line. According to UDC 35-514(6)(d), corrugated metal is a prohibited fencing material.

Upon the site visit conducted by BOA staff, the corrugated metal appeared to be unprotected along the top and bottom of the fence.

### Code Enforcement History

A Code Investigation was opened on June 17, 2021 for Building a Fence Without a Permit. The property owner did have a fence permit, so the case was closed. However, Code Enforcement advised the property owner to apply for a variance for the fencing material.

### **Permit History**

A Fence Permit was pulled on April 13, 2021.

### **Zoning History**

The subject property was annexed by the City of San Antonio by Ordinance 18115 on September 25, 1952 and was zoned “A” Single-Family Residence District. The zoning converted from “A” to the “R-5” Residential Single-Family District upon adoption of the 2001 Unified Development Code (Ordinance 93881, dated May 3, 2001).

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

<b>Existing Zoning</b>	<b>Existing Use</b>
“R-5” Residential Single-Family District	Single-Family Residence

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

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“R-5” Residential Single-Family District	Single-Family Residence
South	“R-5” Residential Single-Family District	Single-Family Residence
East	“R-5” Residential Single-Family District	Single-Family Residence
West	“R-5” Residential Single-Family District	Single-Family Residence

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

The subject property is located 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 Colonial Hills Neighborhood Association, and they were notified of this application.

### **Street Classification**

Briarfield Drive is classified as a Local Road.

### **Criteria for Review - Variances**

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. The applicant is requesting a variance to the fence material being used, which is contrary to the public interest.

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

The fence constructed on the subject property was non-existing, so a literal enforcement of the ordinance would result in the applicant needing to replace the materials of the fence on subject property for life and safety hazards. This is not an unnecessary hardship as they can use an alternative material.

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 corrugated metal does not observe the spirit of the ordinance.

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.*

If granted, the constructed fence along the southeastern side property line is 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 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 plight of the owner of the property for which the variance is sought is due to circumstances that was created on the property by the property owner and are not merely financial.

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

The alternative to the applicant's request is to adhere to recommended fencing materials that conforms to the UDC 35-514 guidelines.

### **Staff Recommendation - Fencing Material Variances**

Staff recommends DENIAL in BOA-21-10300091 based on the following findings of fact:

1. The corrugated metal fencing material is prohibited material per UDC 35-514; and
2. The corrugated metal fence is out of character with the neighborhood and contrary to the public welfare.