



City of San Antonio

Agenda Memorandum

File Number:15-5679

Agenda Item Number: 4.

Agenda Date: 11/2/2015

In Control: Board of Adjustment

Case Number: A-15-166
Applicant: Dan Weissman
Owner: JP San Antonio I, LLC
Council District: 4
Location: 5627 Sherry Drive
Legal Description: Lots P-47E and P-47A, NCB 15634
Zoning: "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager: Kristin Flores, Planner

Request

A request for a 2 foot variance from the maximum 6 foot fence height to allow an 8 foot fence around the rear yard of a mobile-home park.

Executive Summary

The subject property is located at 5627 Sherry Drive located between the 5700 and 5800 block of Old Pearsall Road. The Lakeside Village Mobile Home Park acquired by the current owners in September of 2014. Since that time, the owner has received numerous reports of criminal activity affecting the residents of Lakeside Village. In order to ensure the safety of residents, the owner hired a contractor to build an eight foot perimeter fence and two emergency gates. However, the contractor secured a permit to construct a six (6) foot fence and not the requested eight (8) foot fence. Code cited the property for having a fence eight (8) feet tall.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single Family Residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single Family Residence

South	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District and “C-3 R” General Commercial Restrictive Alcohol Sales	Indian Creek Elementary and Pearsall Road Baptist Church
East	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District and ROW	Single Family Residence
West	ROW	Old Pearsall Road

Comprehensive Plan Consistency/Neighborhood Association

The property is located within the boundaries of the United Southwest Sector Plan and is designated as High Density Residential in the future land use component of the plan. The subject property is located within the boundary of the Southwest Community Association. As such, the community association was notified and asked to comment.

Criteria for Review

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, these criteria are represented by minimum fence height to protect home owners, and also to provide for a sense of community. This community has experienced high levels of criminal activity. The proposed fence will serve to provide increased privacy and security of the property. This is not contrary to the public interest.

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

The special condition in this case is the high levels of crime experienced in this community.

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 letter of the law. The additional fence height is intended to provide safety, security, and privacy of the residents of Lakeside Village. Therefore, this variance observes the spirit of the code.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*

The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the “R-6 AHOD” Residential Single-Family Airport Hazard Overlay 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.*

This community is largely surrounded by other single family residential uses and public institutions. Allowing this community to have additional fence height will not alter the essential character of the district in which the property 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.

The unique circumstance on this property is the occurrence of crime in the area. This is not merely financial and was not created by the property owner.

Alternative to Applicant's Request

The applicant must build the fence not to exceed to six foot maximum, as described in Section 35-314 (d).

Staff Recommendation

Staff recommends **APPROVAL of a two foot variance from the six foot minim to allow a fence to be eight feet in height in A-15-166** based on the following findings of fact:

1. Due to increased crime rates the owner wishes to ensure the safety of residents;
2. The proposed fence is not likely to be visible from the right of way;
3. The proposed fence is in keeping with the character of the community.

Attachments

Attachment 1 - Notification Plan (Aerial Map)

Attachment 2 - Plot Plan (Aerial Map)

Attachment 3 - Site Plan

Attachment 4 - Site Photos