



City of San Antonio

Agenda Memorandum

File Number:17-6297

Agenda Item Number: 4.

Agenda Date: 11/20/2017

In Control: Board of Adjustment

Case Number: A-17-189
Applicant: Mary Borrego
Owner: Mary Borrego
Council District: 1
Location: 2203 West Hermosa Drive
Legal: Lots 19-23, Block 31, NCB 8428
Description:
Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard
Overlay District.
Case Manager: Oscar Aguilera, Planner

Request

A request for 1) a special exception to allow a six foot tall predominately open fence, as described in Section 35-399.04, around the front yard of the property and 2) a request from the Clear Vision requirements for intersection visibility, as described in Section 35-514 a(2).

Executive Summary

The home on the subject property is located further back than adjacent homes. The property, by comparison, has a smaller rear yard than most homes in the community. The property is composed of lots 19 through 23, has a frontage greater than one hundred feet, and it is fifteen thousand square feet in size. The applicant advised that they have problems with people loitering within her property and that she has experienced criminal activity. The applicant stated that she is a senior citizen and would like to have the fence as is in order to protect her and family against a possible home invasion.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Home

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
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North	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Home
South	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Home
East	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Home
West	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Home

Comprehensive Plan Consistency/Neighborhood Association

The subject property is within the boundaries of the Near Northwest Community Plan and currently designated Urban Low Density Residential in the future land use component of the plan. The subject property is located within the Los Angeles Heights Neighborhood Association. As such they were notified and asked to comment.

Criteria for Review

According to Section 35-482(h) of the UDC, in order for special exception to be granted, 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 request for a six foot predominantly open fence in the property line is in harmony with the spirit and purpose of the chapter as the fence is intended to protect the property and there are similar fences within the district. Further, the chapter would permit the requested fence height if the lot was 5,000 square feet larger.

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

Allowing the property owner to place a six foot fence around the property line will help to prevent acts of trespass in the future and ensure the safety of the owner's property. In addition, the owner is only a few thousand feet away from meeting the requirements for a large lot fencing requirements. Therefore, the public welfare and convenience will be substantially served.

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

Granting the requested special exception will not substantially injure the neighboring properties as the fence will be able to protect the subject property from trespass. In addition there are similar fences in height within the neighboring district.

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 predominately open six foot fencing around the front site property line would not significantly alter the overall appearance of the district since there are similar fences in height.

E. The special exception will not weaken the general purpose of the district or the regulations herein established for the specific district.

The purpose of the fencing standards is to protect the health, safety, and general welfare of the public. The special exception request is to allow a six foot tall front fence in order to add security for the owner. Therefore, the requested special exception will not weaken the general purpose of the district.

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 request not to enforce the Clear Vision requirements at the intersection of West Hermosa Drive and Melbourne Avenue is contrary to the public interest. Not providing the Clear Vision field may pose a hazard to drivers and pedestrians since the fence will pose a visibility obstruction to drivers.

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

Staff is unable to establish a special condition that warrants the elimination of the Clear Vision field. The applicant would only need to modify small portions of the fence to comply.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

The request to waive the Clear Vision requirements at the intersection of West Hermosa Drive is unsafe. Therefore, the spirit of the ordinance and substantial justice will not be done

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-4 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.*

Not providing the Clear Vision requirements will weaken the general purpose of the district due to the fence obstructing the visibility of drivers and pedestrians. Therefore, the lack of clear vision will cause a public safety hazard.

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.*

No hardship exists for not providing the required Clear Vision field at the intersection of West Hermosa Drive and Melbourne Avenue. The applicant would only need to modify small portions of the existing fence to comply.

Alternative to Applicant's Request

The applicant could follow the guidelines for front fence heights, as described in 35-514 (d) and would have to comply with the Clear Vision field.

Staff Recommendation

Staff recommends **APPROVAL of A-17-198 for the special exception to allow a six foot tall fence** based on the following findings of fact:

1. The fence will protect the property owner from theft, vandalism, and trespass; and
2. The fence style will be in keeping with the character of the community.

Staff recommends **DENIAL of the variance from the Clear Vision field** based on the following findings of fact:

1. Not providing the Clear Vision Requirements will create a visibility obstruction to drivers and pedestrians; and
2. Not providing the Clear Vision Requirements will weaken the general purpose of the district due to the fence obstructing the visibility of drivers and pedestrians.
3. Only small portions of the fence would need to be modified to comply with the Clear Vision requirements.