



City of San Antonio

Agenda Memorandum

File Number:18-1928

Agenda Item Number: 5.

Agenda Date: 2/19/2018

In Control: Board of Adjustment

Case Number: A-18-033
Applicant: Beatriz Reyes
Owner: Beatriz Reyes
Council District: 2
Location: 4341 Seabrook Drive
Legal: Lot 9, Block 5, NCB 12254
Description:
Zoning: "R-5" Residential Single-Family District
Case Manager: Debora Gonzalez, Senior Planner

Request

A request for 1) a special exception to allow front yard fencing as tall as six feet and six inches tall and 2) a request for a five foot and eleven inch variance from the six foot maximum rear yard fence height to allow a rear yard fence to be eleven feet and eleven inches feet tall.

Executive Summary

The subject property is located at 4341 Seabrook Drive, 619 feet east of Green Valley Drive. The applicant added a six foot tall solid fence and six foot six inch column structures within the front yard and side of the property for additional enclosed outdoor space for privacy. The rear side yard fence is eight feet tall solid and the applicant is asking for extra fence height for privacy. Lastly, the applicant has stated that she runs a boarding home and wants to create a private environment to protect the public from view to her clients.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-5" Residential Single-Family District	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-5" Residential Single-Family District	Single-Family Dwelling
South	"R-5" Residential Single-Family District	Single-Family Dwelling

East	"R-5" Residential Single-Family District	Single-Family Dwelling
West	"R-5" Residential Single-Family District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The subject property is within the boundaries of the Arena District/ Eastside Community Plan and currently designated as Medium Density Residential in the future land use component of the plan. The subject property is not located within the boundaries of a neighborhood association.

Criteria for Review

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 up to eight feet. The additional fence height is intended to provide safety, security, and privacy of the applicant. Reducing the fence height increases visibility from the street and could result in unnecessary hardship. The additional fence is intended to add additional privacy for the applicant's clients. 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 maximum fence heights to protect home owners, while promoting a sense of community. A six foot six inch fence along with the eight foot rear side fence was built to provide additional privacy for the applicant's clients. Both fence heights will serve to provide increased privacy and security of the property. This is not contrary to the public interest.

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

Both fences will create enhanced security for the subject property and is highly unlikely to injure adjacent properties. Further, both fences do not obscure the neighboring property's vision from their driveway.

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 front yard fence has existed since 2014.

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

The property is located within the "R-5" Residential Single-Family District and permits the current use of a single-family home. The requested special exception will not weaken the general purpose of the district.

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, the public interest is represented by fence height limits to provide for security and privacy, and to create a sense of community. The proposed solid fence in the rear yard will create inconsistency and will differ from other properties in the neighborhood and tower over adjacent lots.

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 such a tall fence.

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. In this case the intent of the code is to allow property owners to secure their property while still creating a sense of community. The requested fence does not observe the intent 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-5” 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 fence detracts from the essential character of the neighborhood. No other home has a fence as tall as eleven feet and eleven inches.

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 cannot identify any unique circumstance that warrants a fence of that height.

Alternative to Applicant’s Request

The applicant would have to comply with the fence height limits as set forth in Section 35-514.

Staff Recommendation

Staff recommends **APPROVAL** of the requested special exception and **DENIAL** of the requested variance in **A-18-033**, based on the following findings of fact:

1. The six feet and six inch solid fence in the front yard has been in place since 2014 without neighborhood complaints, and;
2. Allowing the rear fence will create inconsistency and alter the essential character of the neighborhood.