



City of San Antonio

Agenda Memorandum

File Number:18-3655

Agenda Item Number: 6.

Agenda Date: 6/4/2018

In Control: Board of Adjustment

Case Number: A-18-095
Applicant: Rebecca Flores
Owner: Rebecca Flores
Council District: 10
Location: 5810 Monte Verde Street
Legal: Lot 4, Block 16, NCB 16409
Description:
Zoning: "R-6 AHOD" Residential Single-Family Airport Hazard
Overlay District
Case Manager: Debora Gonzalez, Senior Planner

Request

A request for a variance from the restriction against the use of corrugated metal as a fencing material, as described in Section 35-514, to allow for the use of corrugated metal for fencing.

Executive Summary

The subject property is located at 5810 Monte Verde Street, approximately 230 feet east of Judson Road. The applicant is requesting to keep a corrugated metal fence in the back yard. The owner replaced the fence using corrugated metal without the required building permits and received a citation from Code Enforcement on March 23, 2018. The applicant states the fence contractor contacted the City to inquiry about the replacement but was not aware that the required permits were not obtained.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
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“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
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Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
South	“C-2 AHOD” Commercial Airport Hazard Overlay District	Library
East	“R-6 AHOD” Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
West	“RM-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Vacant

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the North Sector Plan and is currently designated Suburban Tier in the future land use component of the plan. The subject property is not within any neighborhood association.

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, the variance is contrary to the public interest as the fence was built with corrugated metal a prohibited material. The corrugated metal fence is inconsistent with the neighborhood design and the material is immediately noticeable from the adjacent public park. Further, this type of material can be dangerous.

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

Staff cannot find any special conditions that, if enforced literally, would result in any unnecessary hardship. As designed, the metal fence appears to surround the property for security and privacy. If a permit was sought, staff could have advised on other approaches to achieve a similar result.

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 permitted materials for fencing is to create a consistent community character. Granting the requested variance

for the fence will not result in substantial justice because the fence, as designed, is out of place within this residential community.

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

The variance will not authorize the operation of a use other than those uses specifically authorized 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.*

The corrugated metal fence is noticeably out of character within this community. The fence dominates the back yard of the property and is visible from the public park to the south of the property. Staff finds the fence detracts from the essential character of the community.

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 did not find any unique circumstances that warrant the granting of the requested variance. Had the applicant have applied for a permit, staff could have assisted with an alternative design that benefits the applicant and the community.

Alternative to Applicant’s Request

The applicant would need to adhere to the permitted fence materials as described in Section 35-514.

Staff Recommendation

Staff recommends **DENIAL** of the variance in **A-18-095**, based on the following findings of fact:

1. The corrugated fence will create inconsistency and alter the essential character of the neighborhood.