



City of San Antonio

Agenda Memorandum

File Number:19-3918

Agenda Item Number: 2.

Agenda Date: 5/6/2019

In Control: Board of Adjustment

Case Number: BOA-19-10300048
Applicant: Justin Petersburg
Owner: O'Reilly Auto Parts, LLC
Council District: 5
Location: 315 North General McMullen Drive
Legal: Lot 25, Block 1, NCB 9024
Description:
Zoning: "C-3 MLOD-2 MLR-2 AHOD" General Commercial
Lackland Military Lighting Overlay Military Lighting
Region 2 Airport Hazard Overlay District
Case Manager: Mercedes Rivas, Planner

Request

A request for a variance, as described in Section 35-514, from the requirement that a 6' tall solid screen fence be provided between commercial and residential properties to allow a 6' tall wrought iron fence to remain.

Executive Summary

The subject property is located at 315 N General McMullen Drive. The applicant wishes to keep a 6' tall wrought iron fence between the commercial and residential properties. The owner of the residential property directly adjacent to the subject property requested that the wrought iron fence be built instead of the solid screen fence required by code.

Code Enforcement History

No Code Enforcement history exists on the property.

Permit History

The applicant is waiting for variances to be approved to obtain a complete building permit and to obtain a Certificate of Occupancy as the owner is operating on a temporary Certificate of Occupancy.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“C-3 MLOD-2 MLR-2 AHOD” General Commercial Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	O’Reilly Auto Parts

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“C-3 MLOD-2 MLR-2 AHOD” General Commercial Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Drainage Ditch
South	“C-3R MLOD-2 MLR-2 AHOD” General Commercial Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Gym Parking Lot
East	“C-2CD MLOD-2 MLR-2 AHOD” General Commercial Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Auto Shop
West	“R-5 MLOD-2 MLR-2 AHOD” Residential District Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Home

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the West Sector Plan and is currently designated as “General Urban Tier” in the future land use component of the plan. The subject property is not located within the boundaries of a Neighborhood Association.

Street Classification

North General McMullen Drive is classified as an Arterial.

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 fence was built with wrought iron. The fence enhances aesthetics towards public view and meets the permitted fence height. If granted, this request would be harmony with the spirit and purpose of the

ordinance.

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

Allowing the applicant to keep the 6' tall wrought iron fence will help create a safe environment while enhancing aesthetics. Therefore, the public welfare and convenience will be substantially served.

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

Granting the variance will not substantially injure the neighboring properties as the fence will enhance safety and privacy for the subject property and is highly unlikely to injure adjacent properties.

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 zoning 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 6' tall wrought iron fence contributes to the character of the community. The fence will not impose any immediate threat to adjacent properties.

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 in this case is that the owner of the residential property directly adjacent to the subject property requested that the wrought iron fence remain instead of the solid screen fence required by code.

Alternative to Applicant's Request

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

Staff Recommendation

Staff recommends **APPROVAL** of the variance in **BOA-19-10300048**, based on the following findings of fact:

1. The fence does not visually hinder the adjacent property's driveway or other motorists view.