



City of San Antonio

Agenda Memorandum

File Number:20-2338

Agenda Item Number: 1.

Agenda Date: 3/2/2020

In Control: Board of Adjustment

Case Number: BOA-19-10300156
Applicant: Yma Luis
Owner: Yma Luis
Council District: 1
Location: 1638 Santa Monica St
Legal: Lot 1, Block 34, NCB 8840
Description:
Zoning: "R-4 AHOD" Residential Single Family Airport Hazard
Overlay District
Case Manager: Kayla Leal, Senior Planner

Request

A request for 1) a variance from the restriction of corrugated metal, described in Section 35-514, as a fencing material to allow for its use as fencing and 2) a variance from the Clear Vision Standards, described in Section 35-514, to allow a fence to be within the Clear Vision field.

Executive Summary

The subject property is a single family home at the southwest corner of Santa Monica Street and Buckeye Street. The property is a corner lot and an alley abuts the South property line. The property owner obtained a permit in June of 2018 to construct a wood fence that was up to 6' tall and not encroaching into the clear vision field. The fence that was constructed included wood and metal and encroaches into the clear vision field along the side property line and along the alley. The property owner received a citation for the violations, and as a result is requesting these variances. The property owner states they were unaware of the metal restriction as the permits were pulled by the contractor. Upon visit to the property staff noticed that the fence is entirely solid and there is a driveway along the South side of the property. The fence along the West side of the property is 9'7" from the street. The alley is 10' wide, maintained, and appears to be regularly used.

Code Enforcement History

There is no code enforcement history on file for the fence.

Permit History

6/12/2018: Fence permit issued for a 6ft wood fence along side and rear yards not to be within Clear Vision

Field

Zoning History

The subject property was annexed into the City of San Antonio by Ordinance 1845 dated May 13, 1940 as “B” Apartment District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 3, 2001, the property zoned “B” Apartment district was converted to “R-4” Residential Single Family District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-4 AHOD” Residential Single Family Airport Hazard Overlay District	Single family residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-4 AHOD” Residential Single Family Airport Hazard Overlay District	Single family residence
South	“R-4 AHOD” Residential Single Family Airport Hazard Overlay District	Single family residence
East	“R-4 AHOD” Residential Single Family Airport Hazard Overlay District	Single family residence
West	“R-4 AHOD” Residential Single Family Airport Hazard Overlay District	Single family residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Near Northwest Plan and designated as “Urban Low Density Residential” in the future land use component of the plan. The subject property is in the boundaries of the Los Angeles Heights Neighborhood Association and as such, they were notified of the case.

Street Classification

Santa Monica Street is classified as a local street.

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 partially with restricted material. The use of corrugated metal fence is inconsistent with the neighborhood design and is immediately noticeable from the street.

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, would result in an unnecessary hardship. The applicant was advised of the restriction for the clear vision and the material at the time the permit was issued.

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 exact letter of the law. The intent of the material limitation is to preserve appropriate design consistent with the surrounding community, which is not observed by the current design of the fence.

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

No uses other than those allowed within the district will be allowed with this variance.

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 is noticeably out of character within the community. There are few solid fences in this neighborhood that are encroaching into the clear vision field. The clear vision encroachment also impacts alleyway users which is an injury of adjacent property.

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 does not find any unique circumstances that warrant the granting of this request. The applicant was informed at the time of the permit of the material and clear vision issues but did not abide by the requirements of the permit.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the lot size requirements of the UDC section 310.01 or to rezone the property to a district that allows that lot size.

Staff Recommendation

Staff recommends **DENIAL** of the special exception in **BOA-19-10300156** based on the following findings of fact:

1. The fence is noticeably out of character with the community.
2. The solid portion of the fence obstructs the clear vision standards of the driveway.
3. There are no unique circumstances that warrant the material use or violation of clear vision field.