



City of San Antonio

Agenda Memorandum

File Number:20-3595

Agenda Item Number: 2.

Agenda Date: 6/15/2020

In Control: Board of Adjustment

Case Number: BOA-20-10300050
Applicant: Cheryl E. Carney
Owner: Cheryl E. Carney
Council District: 1
Location: 1124 West Gramercy Place
Legal Description: Lot 10 and 11, Block 10, NCB 1785
Zoning: "R-6 NCD-5 AHOD" Residential Single Family Beacon
Hill Neighborhood Conservation Airport Hazard Overlay
District
Case Manager: Kayla Leal, Senior Planner

Request

The applicant is requesting a 2' special exception to Sec. 35-514 of the UDC and variance from the Beacon Hill Neighborhood Conservation District design standards of the UDC Section 35-335 to allow a fence to be 8' tall along the side property line.

Executive Summary

The subject property is located on West Gramercy Place in close proximity to IH-10. There is currently a single-family residence constructed on the property. The applicant currently has a 6' tall wooden fence along the eastern side property line and is requesting to install an 8' tall wooden fence. The taller fence would provide additional privacy to the applicant.

Code Enforcement History

There is no code enforcement history on file for the subject property.

Permit History

There is no relevant permit history on file for the subject property.

Zoning History

The subject property was included in the original 36 square miles of the City of San Antonio and was previously zoned “B” Residence District. The property was rezoned by Ordinance 86704, dated September 25, 1997 from “B” Residence District to “R-1” Single Family Residence District. Upon adoption of the 2001 Unified Development Code, the previous base zoning district converted to the current “R-6” Residential Single Family District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-6 NCD-5 AHOD" Residential Single Family Beacon Hill Neighborhood Conservation Airport Hazard Overlay District	Single family residential

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-6 NCD-5 AHOD" Residential Single-Family Beacon Hill Neighborhood Conservation Airport Hazard Overlay District	Single family residential
South	"RM-4 NCD-5 AHOD" Residential Mixed Single-Family Beacon Hill Neighborhood Conservation Airport Hazard Overlay District and "R-6 NCD-5 AHOD" Residential Single-Family Beacon Hill Neighborhood Conservation Airport Hazard Overlay District	Single family residential
East	"RM-4 NCD-5 AHOD" Residential Mixed Single-Family Beacon Hill Neighborhood Conservation Airport Hazard Overlay District and "R-6 NCD-5 AHOD" Residential Single-Family Beacon Hill Neighborhood Conservation Airport Hazard Overlay District	Single family residential
West	"R-6 NCD-5 AHOD" Residential Single-Family Beacon Hill Neighborhood Conservation Airport Hazard Overlay District	Single family residential

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Midtown Neighborhood Plan and designated as “Low Density Residential” in the future land use component of the plan. The subject property is within the boundary of the Beacon Hill Area

Neighborhood Association and as such, they were notified of the case.

Street Classification

West Gramercy Place is classified as a local street.

Criteria for Review - Special Exception for Fence Height

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 privacy of the applicant's property. The applicant has indicated there has been issues with the neighbor and is requesting the additional height for added privacy. 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 residential property owners while still promoting a sense of community. The applicant states the slight elevation of the property results in less privacy. An 8' tall wooden fence along the side property lines will provide additional privacy for the applicant's property. This is not contrary to the public interest.

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

The fence will create enhanced security and privacy for the subject property and is highly unlikely to injure adjacent properties. The material and style of the fence is similar to other fences and will not be noticeable from the right-of-way. Further, the fencing does not violate Clear Vision standards.

- 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 fencing is in line with other preexisting fencing material and height within the immediate vicinity.

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

The current zoning permits the current use of a single-family home. The requested special exception will not weaken the general purpose of the district.

Criteria for Review - Variance for Fence Height within NCD

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 not contrary to the public interest as it will only be constructed along the eastern property line.

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

Staff finds a literal enforcement of the ordinance would result in the continuation of a lack of privacy as the applicant has claimed her yard can be viewed from the neighboring yard. The added height provides her the same privacy as a 6 foot fence would on flat land.

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 fence height is for uniformity and privacy. The applicant is only requesting to add height to one section of her fence, due to the slight elevation, which will maintain the spirit of the ordinance.

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.

Staff does not find that such variance will substantially injure adjacent properties or alter the essential character of the district.

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 finds that the unique circumstances were not created by the owner of the property and are not merely financial. The applicant is requesting the variance due to unique circumstances and only requesting the variance for a minimal section of her fence.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to Sec. 35-514 of the UDC as well as the Beacon Hill Neighborhood Conservation District design standards of the UDC Section 35-335.

Staff Recommendation

Staff recommends **APPROVAL** of the special exception and variance in **BOA-20-10300050** based on the following findings of fact:

1. The additional two feet will provide the applicant security and privacy; and
2. The fence will remain true to the character of the district by being a solid, wooden fence in the side yard; and
3. The special exception and variance is being sought to abide by UDC regulations and NCD-5 design standards prior to construction.