



City of San Antonio

Agenda Memorandum

File Number:20-5537

Agenda Item Number: 5.

Agenda Date: 9/21/2020

In Control: Board of Adjustment

Case Number: BOA-20-10300077
Applicant: Connie High
Owner: Connie High
Council District: 1
Location: 2313 Edison Drive
Legal Description: Lot 18 Block 44 NCB 8461
Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard
Overlay District
Case Manager: Azadeh Sagheb, Planner

Request

A request for 1) a 2'11" special exception, as described in Section 35-514, to allow a privacy fence to be up to 5'11" tall in the front yard, and 2) a variance from the Clear Vision standards, also described in Section 35-514, to allow a fence to be within the Clear Vision field.

Executive Summary

The subject property is located at 2313 Edison Drive, 180 feet away from Fredericksburg Rd, west of Whittier Middle School. The applicant states that the original fence was rotted out and fell causing a hazard. Therefore, they constructed a 6' tall Cedar privacy fence along the east side property line within the front yard without obtaining a permit. The applicant is proposing a 5'11" tall privacy fence along the west side property line within the front yard and willing to have it built all around the yard except for the front of the house that has Rock fencing. There is a driveway in the front yard which is located 2 feet away from the west side property line and installing the proposed fence causes Clear Vision issues on the site. The applicant states concerns of security and safety.

The characteristics of Edison Drive is made up of residential and commercial uses. There is a commercial building behind the subject property. Therefore, the owner is able to build up to 8' tall along the rear property line.

Code Enforcement History

There is a Code violation record related to the fence permit and height, dated June 10, 2020.

Permit History

No permit history exists on this property.

Zoning History

The subject property was annexed to the City of San Antonio by Ordinance 1845, dated May 13, 1940 and zoned “B” Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “B” Residence District converted to the current “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	Residential

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“C-1 AHOD” Light Commercial Airport Hazard Overlay District	Neighborhood Commercial
South	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Residential
East	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Residential
West	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District	Residential

Comprehensive Plan Consistency/Neighborhood Association

The subject property is within the boundaries of the Near Northwest Community Plan and currently designated as Urban Low Density Residential in the future land use component of the plan. The subject property is located within the boundaries of the Los Angeles Heights Neighborhood Association. As such, they were notified and asked to comment.

Street Classification

Edison Drive is classified as a local street.

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 5 feet and 11 inches. The additional fence height is intended to provide safety and security of the applicant's property. 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 fence heights to protect residential property owners while still promoting a sense of community. A 5'11" tall closed fence within the front yard will provide additional security 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 is not noticeable from the right-of-way.

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.

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

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, given fence placement, the variance to Clear Vision is contrary to the general health and safety of passersby as vision is limited when exiting the property.

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

There are no special conditions that would result in unnecessary hardship as it is a proposal. The property owner can build a 3 feet privacy fence on the west side to comply with the Clear Vision standard.

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 Clear Vision is to increase visibility when entering/exiting properties and limit harm to passersby. Approving the placement of the fence as is within the Clear Vision would decrease visibility and increase harm to passersby.

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.*

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 variance would substantially injure the appropriate use of adjacent properties as the placement of the 5'11" solid screen fence within the Clear Vision limits visibility for not only the owner of the property but also adjacent property owners as well.

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 could not find any unique circumstances that warrant the granting of the requested variance. The applicant can substitute the proposed fence height for an alternative design, a 3 feet tall fence, that benefits the applicant and the community.

Alternative to Applicant's Request

Denial of the request would result in the owner having to meet the required fence height regulations in Section 35-514.

Staff Recommendation

Staff recommends **APPROVAL of BOA-10300077** of the requested "a 2'11" special exception to allow a privacy fence to be up to 5'11" tall in the front yard", based on the following findings of fact:

1. The additional 2'11" will provide security and privacy to the property, and;
2. The fence will remain consistent with the character of district by being a solid wooden fence within the rear yard.

Staff Recommendation

Staff recommends **DENIAL of BOA-10300077** of the requested "a variance from the Clear Vision standards to allow a fence to be within the Clear Vision field", based on the following findings of fact:

1. The proposed fence will be only 2 feet away from the property driveway that will violate Clear Vision standards.