



City of San Antonio

Agenda Memorandum

File Number:20-7502

Agenda Item Number: 7.

Agenda Date: 1/11/2021

In Control: Board of Adjustment

Case Number: BOA-20-10300110
Applicant: Elvira Salazar
Owner: Elvira Salazar
Council District: 5
Location: 139 Arizona Avenue
Legal Description: Lot 36, Block 12, NCB 7377
Zoning: "R-4 MLOD-2 MLR-2" Residential Single-Family
Lackland Military Lighting Overlay Military Region 2
Airport Hazard Overlay District
Case Manager: Azadeh Sagheb, Planner

Request

A request for 1) a special exception, as described in Section 35-514, to allow an 8' solid screen fence on the side property, 2) a special exception, also described in Section 35-514, to allow a privacy fence to be up to 8' tall along the side property line within the front yard, and 3) a 5'9" variance from the Clear Vision standards, also described in Section 35-514, to allow a fence to be 9' 3" within the Clear Vision field.

Executive Summary

The subject property is located at 139 Arizona Avenue, two blocks away from the intersection of Arizona Avenue and SW 21st Street, and 103 feet Eastern side of Carvajal Early Childhood Campus. The neighborhood is predominantly surrounded by residential properties.

The applicant is wanting to install an 8' tall wooden privacy fence on the east side of property and continue it up to the front property line. During the site visit, staff noticed that the western side neighbor had constructed a 6' 7" wooden fence within the front yard which is 9' 2" within the Clear Vision Field.

There is currently a 4' tall chain-link metal fencing around the property and the applicant states concern of privacy and security in requesting an 8' tall solid fence.

Code Enforcement History

No Code Enforcement record exists on this property.

Permit History

No relevant permits have been processed for this property.

Clear Vision Review

The Clear Vision standard is in violation.

Zoning History

The subject property was located within the original 36 square miles of the City of San Antonio and was originally zoned as “B” Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property converted from “B” Residence District to the current “R-4” Residential Single-Family District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-4 MLOD-2 MLR-2” Residential Single-Family Lackland Military Lighting Overlay Military Region 2	Residential

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-4 MLOD-2 MLR-2” Residential Single-Family Lackland Military Lighting Overlay Military Region 2	Residential
South	“R-4 MLOD-2 MLR-2” Residential Single-Family Lackland Military Lighting Overlay Military Region 2	Residential
East	“R-4 MLOD-2 MLR-2” Residential Single-Family Lackland Military Lighting Overlay Military Region 2	Residential
West	“R-4 MLOD-2 MLR-2” Residential Single-Family Lackland Military Lighting Overlay Military Region 2	Residential

Comprehensive Plan Consistency/Neighborhood Association

The subject property is not located within a plan and there is not designated land use for it. The subject property is located within the boundaries of El Charro Neighborhood Association. As such, they were notified and asked to comment.

Street Classification

Arizona Avenue is classified as a local street.

Criteria for Review- Special Exception

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 an 8' tall fence. The additional fence height for the side fence within the rear yard 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 chapter.

A fence height of 8 feet in the front yard is not appropriate and out of character with the neighborhood.

B. The public welfare and convenience will be substantially served.

In this case, the criteria are represented by maximum fence heights to protect residential property owners while still promoting a sense of community. An 8' tall solid fence along the side property lines will provide additional security for the applicant's property. This is not contrary to the public interest.

A fence height of 8 feet in the front yard is not appropriate and out of character with the neighborhood.

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

The proposed fence on the side property line 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 in harmony with the other fences in the neighborhood. The fencing does not violate Clear Vision standards.

A fence height of 8 feet in the front yard is not appropriate and will impact 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 proposed fence is in line with other preexisting fencing material and height within the immediate vicinity. The fencing does not seem likely to alter the essential character of the district.

A fence height of 8 feet in the front yard is not appropriate and out of character with the neighborhood.

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 Clear Vision

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 high fence placement within the front yard, 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 conditional that would result in unnecessary hardship. The property owner can adjust the

height of proposed fence within the front yard to comply with the Clear Vision standards.

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 requested 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 requested variances will not permit a use not authorized within the “R-4 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 variances would substantially injure the appropriate use of adjacent properties as the placement of the 8’ solid screen fence in the front yard within the Clear Vision limits visibility for not only the owner of the property but also adjacent property owners.
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 variances. Staff does support an alternative design of a 4’ tall privacy fence within the front yard 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-10300110** of the requested “special exception for an 8’ side yard fence within the rear yard”, based on the following findings of fact:

1. The material and look of the proposed fence is not out of character with the surrounding neighborhood.
2. The fence will remain in harmony with the character of the district by being a solid screen wooden fence along the side property line, and;
3. The additional two feet will provide security and privacy to the property.

Staff Recommendation

Staff recommends **DENIAL of BOA-10300110** of the requested “special exception to allow a privacy fence to be up to 8’ tall along the side property line within the front yard”, and “a 5’9” variance from the Clear Vision to allow a fence to be 9’ 3” within the Clear Vision field”
based on the following findings of fact:

1. The proposed fence within the front yard will detract from the character of neighborhood, and;
2. The Clear Vision standard will be in violation by installing an 8’ tall solid wooden fence

within the front yard.