



# City of San Antonio

## Agenda Memorandum

**File Number:**21-1311

**Agenda Item Number:** 7.

**Agenda Date:** 2/1/2021

**In Control:** Board of Adjustment

Case Number:	BOA-20-10300132
Applicant:	Carolyn Randle
Owner:	Carolyn Randle
Council District:	2
Location:	5927 Iris Isle
Legal Description:	Lot 12, Block 51, NCB 17738
Zoning:	"R-5 MLOD-3 MLR-2 AHOD" Residential Single-Family Martindale Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Case Manager:	Kayla Leal, Senior Planner

### **Request**

A request for 1) a special exception to allow a front yard fence and side yard fence to be 8' tall, as described in Section 35-514, and 2) a 3' 2" variance from the minimum Clear Vision requirement of 15', as described in Section 35-514, to allow a front yard fence to be 11' 10" from the street.

### **Executive Summary**

The subject property is located on the east side of San Antonio within a new single-family subdivision. The applicant is requesting a special exception to allow a fence along the southeastern property line to be 8' tall. The fence will be 11' 10" from the edge of the curb, so a variance to the Clear Vision standards is also being requested. The Development Services Traffic Division has reviewed the request and have stated the proposed layout and fence height at the cul-de-sac does not seem to propose any clear vision or sight constraints upon review.

### **Code Enforcement History**

There are no relevant code enforcement cases for the property.

### **Permit History**

There are no relevant permits pulled for the property.

### **Zoning History**

The subject property was annexed into the City of San Antonio on December 26, 1972 by Ordinance 41431 and was zoned Temporary "R-1" One-Family Residence District. The zoning changed from Temporary "R-1" to the current "R-5" Residential Single-Family District, established by Ordinance 93987, dated May 24, 2001.

### **Subject Property Zoning/Land Use**

<b>Existing Zoning</b>	<b>Existing Use</b>
"R-5 MLOD-3 MLR-2 AHOD" Residential Single-Family Martindale Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence/Assisted Living Facility

### **Surrounding Zoning/Land Use**

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	"R-5 MLOD-3 MLR-2 AHOD" Residential Single-Family Martindale Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
South	"R-5 MLOD-3 MLR-2 AHOD" Residential Single-Family Martindale Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
East	"R-5 MLOD-3 MLR-2 AHOD" Residential Single-Family Martindale Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
West	"R-5 MLOD-3 MLR-2 AHOD" Residential Single-Family Martindale Air Field Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence

### **Comprehensive Plan Consistency/Neighborhood Association**

The subject property is not located within a Comprehensive Plan. The subject property is located within the Northeast Crossing HOA Neighborhood Association, and as such they have been notified of the case.

### **Street Classification**

Iris Isle is classified as a Local Road.

### **Criteria for Review - 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. 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. An 8' fence along the southeastern property line 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 unlikely to injure adjacent properties.**

*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 additional height for the section of side yard fence will not alter the essential character of the district and will provide security of the district.**

*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 - 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. The applicant is requesting the variance in order to construct an 8' tall fence. The proposed fence is not contrary to the public interest.**

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

**Staff finds that a literal enforcement would result in an unnecessary hardship.**

*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 is to protect residential property owners while still promoting a sense of community which is being observed with this request.**

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 request to reduce the 15' clear vision area has been reviewed by DSD Traffic and they have determined it does not seem to propose any sight constraints.**

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 applicant is requesting the variance to install a new fence and the unique circumstances were not created by the owner of the property and are not financial in nature.**

#### **Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the fence and clear vision regulations of the UDC Sections 35-514.

#### **Staff Recommendation - Fence Special Exception**

Staff recommends **Approval** in **BOA-20-10300132** based on the following findings of fact:

1. The 8' fence will be constructed on the southeastern property line; and
2. The additional height will promote the health, safety, and welfare of the community.

#### **Staff Recommendation - Clear Vision Variance**

Staff recommends **Approval** in **BOA-20-10300132** based on the following findings of fact:

1. The fence will remain 11' 10" from the edge of the curb.