



# City of San Antonio

## Agenda Memorandum

**File Number:**21-1317

---

**Agenda Item Number:** 2.

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

**In Control:** Board of Adjustment

---

Case Number: BOA-20-10300127  
Applicant: Hoda Cummings  
Owner: Hoda Cummings  
Council District: 2  
Location: 431 Adams Street  
Legal Description: Lot 9, Block 5, NCB 2880  
Zoning: "RM-4 H AHOD" Residential Mixed King William  
Historic Airport Hazard Overlay District  
Case Manager: Azadeh Sagheb, Planner

### **Request**

A request for 1) an appeal of the Historic Preservation Officer's decision to issue a Certificate of Appropriateness, and 2) a 16' variance to the minimum Clear Vision of 25', as described in Section 35-514, to allow a front yard fence to be 9' away from the street.

### **Executive Summary**

The subject property is a corner lot residential located at the intersection of Adams, Barbe and Wickes Street, North of Lone Star and East of San Antonio River. The neighborhood is predominantly surrounded by residential properties.

The applicant is wanting to install a 4' tall cattle panel style fence within the front yard and submitted a request for a Certificate of Appropriateness (COA) to the Office of Historic Preservation. On October 21, 2020, the Historic and Design Review Commission (HDRC) denied the applicant's request to issue a COA due to the proposed fencing material needs to be altered. The applicant is appealing the HDRC decision and requesting to approve the proposed fence.

Per Sec. 35-514 (2a), to install a fence on a Residential Corner Lot where the Street Intersections exist, UDC requires twenty-five (25) feet space in each direction from the street curb. During the site visit, staff noticed that the fence would be 9' and 12' away from Adams and Barbe St., respectively.

DSD Traffic Engineering Staff made a field visit on 01/21/2021 to verify proposed fence layout is in accordance with UDC 35-506 (d)5. Staff finds that the proposed fence layout meets intersection sight distance

as long as the layout is within the property bounds and does not encroach the City's Right of Way. Traffic has no reservations for the fence layout to have a lesser Clear Vision area than UDC 35-514.

In 2018 the applicant received approval from the Board of Adjustment for the side and rear setback.

### **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.

### **Applicable Code References (summarized)**

UDC 35-451 and 35-481. Appeals to the Board of Adjustment. The Board of Adjustment is empowered to consider an appeal of a decision by an administrative official, in this case, the Historic Preservation Officer (HPO). The appeal must be submitted by a person aggrieved the decision. The appeal must include details regarding the incorrect interpretation made by the administrative official. In determining whether or not to grant the appeal, the board of adjustment shall consider the same factors as the commission and the report of the commission.

UDC 35-610. ...Applications shall be reviewed for consistency with the historic or district specific design guidelines adopted by city council. The application shall be reviewed for conformance to the general rules and principles contained in the guidelines. Applications should be approved if in general conformance with the guidelines but denial of an application by the city manager or the city manager's designee may be based on any inconsistency or nonconformance with the approved guidelines.

### **Zoning History**

The subject property is located within the original 36 square miles of the City of San Antonio and previously zoned as "R-2A" Three and Four-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property converted from "R-2A" Three and Four-Family Residence District to the current "RM-4" Residential Mixed District.

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

Existing Zoning	Existing Use
"RM-4 H AHOD" Residential Mixed King William Historic Airport Hazard Overlay District	Residential

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

Orientation	Existing Zoning District(s)	Existing Use
-------------	-----------------------------	--------------

North	“RM-4 H AHOD” Residential Mixed King William Historic Airport Hazard Overlay District	Residential
South	“RM-4 H HS AHOD” Residential Mixed King William Historic Historic Significant Airport Hazard Overlay District	Residential
East	“RM-4 H HS AHOD” Residential Mixed King William Historic Historic Significant Airport Hazard Overlay District	Residential
West	“RM-4 H AHOD” Residential Mixed King William Historic Airport Hazard Overlay District	Residential

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

The subject property is in the Downtown Area Regional Center Plan and is designated “Urban Low Density Residential” in the future land use component of the plan. The subject property is in the boundaries of the King William Neighborhood Association and as such, they were notified and asked to comment.

### **Street Classification**

Adams, Barbe and Wickes Street are classified as local streets.

### **Applicable Citations for Appeal:**

*Historic Design Guidelines, Chapter 5, Guidelines for Site Elements*

#### 2. Fences and Walls

##### B. NEW FENCES AND WALLS

- i. Design-New fences and walls should appear similar to those used historically within the district in terms of their scale, transparency, and character. Design of fence should respond to the design and materials of the house or main structure.
- ii. Location-Avoid installing a fence or wall in a location where one did not historically exist, particularly within the front yard. The appropriateness of a front yard fence or wall is dependent on conditions within a specific historic district. New front yard fences or wall should not be introduced within historic districts that have not historically had them.
- iii. Height-Limit the height of new fences and walls within the front yard to a maximum of four feet. The appropriateness of a front yard fence is dependent on conditions within a specific historic district. New front yard fences should not be introduced within historic districts that have not historically had them. If a taller fence or wall existed historically, additional height may be considered. The height of a new retaining wall should not exceed the height of the slope it retains.
- iv. Prohibited materials-Do not use exposed concrete masonry units (CMU), Keystone or similar interlocking retaining wall systems, concrete block, vinyl fencing, or chain link fencing.
- v. Appropriate materials-Construct new fences or walls of materials similar to fence materials historically used in the district. Select materials that are similar in scale, texture, color, and form as those historically used in the district, and that are compatible with the main structure. Screening incompatible uses-Review alternative fence heights and materials for appropriateness where residential properties are adjacent to commercial or other potentially incompatible uses.

## **FINDINGS:**

- A. The applicant requested a new front yard fence and was heard by the Historic and Design Review Commission (HDRC) on October 21, 2020. Staff recommended approval of the new front yard fence with the following stipulations:
- i. That the fencing material be modified to be more in keeping with the fence styles that are characteristic of the district, such as wood picket or wrought iron, as noted in finding b. The applicant is required to submit an updated design to staff prior to the issuance of a Certificate of Appropriateness.
  - ii. That the applicant submits an update site plan that indicates the exact location of the proposed transition from 4 foot tall front yard fencing to 6 foot tall privacy fencing on the Barbe St property line. The front yard fencing shall extend to a minimum 1 foot behind the front corner of the primary structure, not including the front porch.
  - iii. The final construction height of an approved fence may not exceed the maximum height as approved by the HDRC at any portion of the fence. Front yard fences shall not exceed four (4) feet in height at any point. Additionally, all fences must be permitted and meet the development standards outlined in UDC Section 35-514.
- B. The applicant disagreed with stipulation is regarding the fencing material, which was addressed in staff's finding (c) as follows:
- i. FENCING: MATERIAL - As noted in finding b, the applicant has proposed a metal cattle panel fence design. Per the applicant, the fence will be constructed of 1' x 3' tubing along the top rail measuring 48" from the ground and 2' x 2' metal posts spaced every 8 feet. A bottom rail measuring 2' x 2' will be installed along the bottom of the fence and will be approximately 3 inches off of the ground. 4' x 4' inch galvanized "hog panels" will be installed in between each 8 foot section of fencing. A matching 4' x 4' gate will be installed across the existing sidewalk leading to the house. All of the 1' x 3' and 2' x 2' material will be painted with Red Oxide Primer. Additionally, handrails will be constructed on the left and right side of the steps in the front of the house to match the fencing. According to the Historic Design Guidelines, fences should feature designs and materials that are compatible with the structure or used historically in the district. Where fencing is present or common in King William, including this particular block of Adams, the material is most often wrought iron or wood picket. Staff does not find the proposed material consistent.
- C. The Historic and Design Review Commission approved the front yard fence with all three of staff's stipulations after discussion, including the requirement to alter the fencing material.

## **Criteria for Review the Clear Vision Standard**

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, and the fact that the both types of materials are predominately open, the variance to Clear Vision is not contrary to the general health and safety of passersby as vision will not be limited.**
2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*  
**The requested variance is not contrary to the public interest and does not negatively impact any of the surrounding residents or uses.**
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/existing properties and limit harm to passersby. Approving the placement of the fence within the Clear Vision would not cause 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 district it is located in.**

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 requested variance to have lesser clear vision would not substantially injure or alter the use or character of adjacent conforming property or 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 the location of the property to be a corner lot that warrant the granting of the requested variance. The proposed fence meets intersection sight distance.**

### **Staff Recommendation**

Staff recommends **DENIAL** of the appeal and recommends that the stipulation for a more compatible fencing material be upheld.

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

Denial of the request would result in the owner having to meet the required Clear vision Field standard in Section 35-514.

### **Staff Recommendation**

Staff recommends **Approval of BOA-20-10300127** of the requested “a 16’ variance to the minimum Clear Vision of 25’ to allow a front yard fence to be 9’ away from the street”, based on the following findings of fact:

1. The proposed fence type is a predominantly open fence, and;
2. The lesser clear vision area would not cause traffic issues.