



# City of San Antonio

## Agenda Memorandum

**File Number:**21-1628

**Agenda Item Number:** 8.

**Agenda Date:** 2/15/2021

**In Control:** Board of Adjustment

|                    |  |
|--------------------|--|
| Case Number:       | BOA-21-10300005  |
| Applicant:         | Sylvia Cantu   |
| Owner:             | Sylvia Cantu   |
| Council District:  | 10   |
| Location:          | 6214 Spring Valley   |
| Legal Description: | Lot 4, Block 22 NCB 18885  |
| Zoning:            | "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District |
| Case Manager:      | Mirko A. Maravi, Senior Planner                                      |

### **Request**

A request for 1) a special exception to allow a front yard fence to be 6' tall privacy fence and 2) a 10' 4" variance from the minimum 15' clear vision requirement to allow a front yard fence to be 4' 8" from the street.

### **Executive Summary**

The subject property is located on the northwest side of San Antonio within a single-family area in the North Sector Plan. The applicant is requesting a variance for a 6' privacy fence along the front yard and a clear vision exemption.

### **Code Enforcement History**

Building Fence without a permit, Case INV-PBP-20-3100001094, initiated on December 3, 2020.

### **Permit History**

There are no relevant permits pulled for the property.

### **Zoning History**

The subject property was annexed into the City of San Antonio by Ordinance 42200, dated June 14, 1973 and zoned Temporary "R-1" Single-Family Residence District. The property was rezoned by Ordinance 66918, dated April 7, 1988 to "R-1" Single-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned "R-1" Single-Family Residence

District converted to the current "R-6" Residential Single-Family District.

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

| <b>Existing Zoning</b>   | <b>Existing Use</b>    |
|--|------------------------|
| "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District | Single-Family Dwelling |

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

| <b>Orientation</b> | <b>Existing Zoning District(s)</b>                                   | <b>Existing Use</b>    |
|--------------------|--|------------------------|
| North              | "MF-33 AHOD" Multi-Family Airport Hazard Overlay District            | Single-Family Dwelling |
| South              | "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District | Single-Family Dwelling |
| East               | "MF-33 AHOD" Multi-Family Airport Hazard Overlay District            | Duplex                 |
| West               | "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District | Single-Family Dwelling |

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

The subject property is in the North Sector Plan and is designated "Suburban Tier" in the future land use component of the plan. The subject property is not within any registered Neighborhood Association, however within 200 feet of the Elmwood HOA Neighborhood Association.

### **Street Classification**

Spring Valley is classified as a Local Street.

### **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. A 6' fence along the 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 a 6' 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-21-10300005** based on the following findings of fact:

1. The 6' fence will be constructed on the south 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-21-10300005** based on the following findings of fact:

1. The fence will remain 4' 8" from the edge of the curb.