



City of San Antonio

Agenda Memorandum

File Number:15-1755

Agenda Item Number: 4.

Agenda Date: 3/2/2015

In Control: Board of Adjustment

To: Board of Adjustment
Case Number: A-15-042
Date: March 02, 2015
Applicant: Mark Riddoch
Owner: Mark Riddoch
Council District: 8
Location: 11105 Vance Jackson Road
Legal Description: Lot 14G or TR-G (.464 AC) & 15E or TR-E (.821 AC), NCB 14698
Zoning: "R-6" Residential Single-Family
Prepared By: Logan Sparrow, Planner

Request

A request for a four foot variance from the three foot maximum front yard solid fence height, as described in Section 35-514, to allow a seven foot tall wall in the front yard of the property.

Executive Summary

The subject property is located at 11105 Vance Jackson Road approximately 107 feet southeast of River East Road. The applicant is seeking a variance to allow a seven foot tall wall to remain along the front property line. The existing wall was constructed shortly after the applicant purchased the home in the Summer of 2011. The applicant had the fence constructed as a means to mitigate noise stemming from the highly travelled Vance Jackson Road. During field visits, staff noted the presence of similar fencing throughout this community.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-6" Residential Single-Family District	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	UZROW	Vance Jackson Road
South	"R-6" Residential Single-Family District	Single-Family Dwelling
East	"R-6" Residential Single-Family District	Single-Family Dwelling
West	"R-6" Residential Single-Family District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The property is not within the boundaries of any neighborhood plan. The subject property is located within the boundaries of the Vance Jackson registered neighborhood association. As such, the neighborhood association was notified and asked to comment.

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 the public interest is represented by height limitations for fencing as a means to encourage a sense of community. This property is unique in that it fronts along a major thoroughfare being Vance Jackson Road. The Unified Development Code permits eight foot tall subdivision perimeter walls, which are common in this community. During the subdivision process of the applicant's property that type of wall was not provided. Staff finds that the applicant should be granted the right to enjoy the same levels of protection enjoyed by other communities in the area.

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

A literal enforcement of the code would require that the applicant remove four feet of the current wall to achieve a height not to exceed three feet tall. A three foot tall fence would not only fail to protect the applicant's home from the busy street but would also be out of character within a community dominated by large perimeter fencing.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

The spirit of the ordinance intends to provide for a sense of community, but also to provide protection for homeowners so that they may enjoy their property. The requested variance does not conflict with the spirit of the ordinance in that the request is to allow a fence that protects the homeowner from the adverse affects of living on a busy street, and also was designed to fit in the community of which it is a part. Staff finds that allowing the applicant to keep the wall will result in substantial justice.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized for the district in which the property for which the variance is sought is located.*

The requested variance will not authorize the operation of a use on the subject property other than those specifically permitted in the "R-6" Residential Single-Family 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 requested variance is unlikely to harm adjacent, conforming properties. The existing wall has been established since the summer of 2011 and has, to date, received no complaints from neighbors. Additionally, neighboring properties have very similar fences.

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.

The unique circumstances present in this case are the increasing traffic along Vance Jackson Road. Vance Jackson Road is more heavily travelled today than it was years ago when this home was first built in 1969, per Bexar County records. As the vehicle miles traveled along this road has increased so, too, has the noise that the road produces. This adverse affect is not the fault of the property owner and is not merely financial in nature.

Alternative to Applicant's Request

The applicant needs to remove four feet of the existing wall to come into compliance with the standards established by the Unified Development Code.

Staff Recommendation

Staff recommends **APPROVAL of A-15-042** based on the following findings of fact:

1. The existing wall has been established since the summer of 2011 and has received no complaints from neighbors;
2. The existing wall is in character and in scale within the surrounding community;
3. The existing wall serves to provide security and privacy for the family that lives along this busy street.