



City of San Antonio

Agenda Memorandum

File Number:15-2842

Agenda Item Number: 3.

Agenda Date: 5/4/2015

In Control: Board of Adjustment

Case Number: A-15-079
Applicant: Rudy Barrera
Owner: Rudy Barrera
Council District: 5
Location: 627 N. San Felipe
Legal Description: Lots 31 and 32, Block 13, NCB 8301
Zoning: "R-5 AHOD" Residential Single-Family Airport Hazard Overlay District
Prepared By: Logan Sparrow, Planner

Request

A request for 1) a three foot variance from the three foot front yard solid fence height limitation to allow a six foot tall wood fence along the south property line in the front yard; 2) a two foot variance from the four foot predominately open front yard fence height limitation, as described in Section 35-514 (d) to allow a six foot tall wrought-iron fence on the east and north property lines in the front yard of the property and 3) a request for a variance from the clear vision requirements to allow a six foot tall solid screen fence up to the front property line.

Executive Summary

The subject property is located at 627 N San Felipe Drive approximately 313 feet north of Blueridge Drive. The applicant is in violation of several UDC requirements. The subject property has a six foot tall wrought-iron fence along the front property line and along the north property line in the front yard of the property - this requires a two foot variance to remain. The applicant has a six foot tall wood privacy fence along the south property line in the front yard of the property - this requires a three foot variance to remain. Lastly, as the fence is located on the property line and immediately adjacent to the driveway, the fencing will also need a variance from the clear vision requirements to remain in place.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
South	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
East	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
West	"R-5 AHOD" Residential Single-Family Airport Hazard Overlay 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 Loma Vista 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, these criteria are represented by fence height limitations to protect property owners and to encourage a sense of community. In this case, the applicant is seeking a two foot variance to keep a six foot tall wrought iron fence in a portion of the front yard. Staff finds that the request for a six foot tall wrought-iron fence is not contrary to the public as, per the applicant, the fence serves to protect the home from criminal activity in the community. Additionally, many other homes in this community have similar wrought iron fencing.

Staff finds that the request for a three foot variance from the three foot maximum solid-screen fence height limitation to allow a six foot tall wood privacy fence in the front yard of the property is contrary to the public interest because it compromises safety when exiting the driveway by making oncoming traffic impossible to identify. Staff recommends that the six foot privacy fencing be replaced with 6 foot wrought iron fence.

Additionally, staff finds that a variance from the clear vision requirement is contrary to the public interest.

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

Staff finds that the special condition present in this case are the abnormally high rates of criminal activity in the community. As six foot tall wrought iron fencing is common within the community, staff finds that denying the applicants request for said fencing would constitute an unnecessary hardship.

Staff does not find that any condition exists on the subject property that would merit the granting of a variance that creates unsafe conditions within the community. The six foot tall privacy fencing in the front yard does not protect the home any more than a six foot tall predominately open fence, but does block clear vision to traffic along N San Felipe when exiting the driveway. Staff recommends that the privacy fencing in the front yard be removed and replaced with a 6 foot predominately open fence.

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

Granting the first variance will result in substantial justice as the family will be able to protect the home from crime.

The request for a six foot tall wood fence in the front yard would not result in substantial justice as the request would permit the obstruction of clear vision when exiting the driveway. The variance from the clear vision requirements would not 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-5 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.

Is it unlikely that granting the requested two foot variance to allow a six foot tall wrought iron fence in the front yard will harm adjacent properties, especially considering that many adjacent properties have similar fencing.

Staff finds that permitting the six foot tall wood fence in the front yard will injure adjacent property owners in that it blocks the view of oncoming traffic while exiting the property; this creates an unnecessary and unsafe condition along N San Felipe. A variance from the clear vision requirement will negatively impact 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.

The unique circumstance present on the property is the high occurrence of crime on the community. As it is so common within the area, staff finds that granting the request for six foot tall wrought iron fencing in the front yard is a reasonable method to prevent such activity from affecting the owner of the property. This is not merely financial in nature, nor is this the fault of the applicant.

However, there is no unique circumstance to warrant the granting of a variance that negatively affects public safety. A six foot tall privacy fence in the front yard does not protect the home any better than a six foot tall predominately open fence but does create unnecessary vision obstruction of traffic.

Alternative to Applicant’s Request

The applicant would need to reduce the wood privacy fence to three feet in height to comply with the cities UDC. The applicant could replace the wooden fencing with wrought iron fencing so that they have a clear view of oncoming traffic when exiting the property.

Staff Recommendation

Staff recommends **APPROVAL of the variance request in A-15-079 to allow the 6 foot wrought iron fencing** based on the following findings of fact:

1. The six foot wrought iron fencing is common within the community;
2. The six foot wrought iron fence serves to protect the applicant’s family from crime.

Staff recommends **DENIAL of the variance requests in A-15-079, related to the privacy fencing and clear vision obstruction** based on the following findings of fact:

1. The privacy fencing obstructs clear vision, creates a traffic hazard and does not protect the family better than a predominately open fence would.