



City of San Antonio

Agenda Memorandum

File Number:15-3648

Agenda Item Number: 4.

Agenda Date: 6/15/2015

In Control: Board of Adjustment

Case Number: A-15-093
Applicant: Miguel A Martinez
Owner: Miguel A Martinez
Council District: 4
Location: 7911 Westshire Drive
Legal Description: Lot 60, Block 44, NCB 15490
Zoning: "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager: Margaret Pahl AICP, Senior Planner

Request

A request for a two foot variance from the maximum four foot front yard predominately open fence height, as described in Section 35-514 (d), to allow up to a six foot tall wrought-iron fence in the front yard of the property.

Executive Summary

The subject property is located within the Lackland Terrace Subdivision, and built in 1960. The applicant recently installed a five-foot wrought iron fence along the front yard. The gate across the driveway is arched up to six feet in height. The fencing was installed without a permit and the owner was cited by Code Enforcement. The home is directly across the street from a park and the applicant has experienced vandalism and trespass as a result. According to the application materials, the applicant's car was vandalized and repairs cost over \$2,000. In addition, the front door was damaged when someone tried to break into the house. The applicant installed the fencing to increase security and protection for the family.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
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North	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
South	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	City Park
East	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
West	"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the West Sector Plan and currently designated as General Urban Tier in the future land use component of the Plan. The subject property is not located within the boundaries of a registered neighborhood association.

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 provide for safety, and also to promote a sense of community. The applicant asserts that the fence is required to secure the property from park patrons. Reducing crime is well within 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 is that the request serves to mitigate criminal activities which have been inflicted upon the applicant's property in the past. A literal enforcement would result in the reduction in fence height along the front property line and 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 provides fencing height and design requirements to protect homes and also to encourage a sense of community. This fence does not detract from the residential nature of the community, nor does its design conflict with the spirit of the ordinance. Therefore, the variance would be consistent with the spirit of the ordinance.

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 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.

The fence is exactly the same as the neighbor's fence to the west. It is 5 feet in height along its length, except for the gates. Therefore, it will not alter the 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.*

The applicant's property is affected by its proximity to a park, creating the need for additional property barriers. This circumstance was not created by the applicant.

Alternative to Applicant's Request

The applicant needs to reduce the fence height to come into compliance with the Unified Development Code.

Staff Recommendation

Staff recommends **APPROVAL of A-15-093** based on the following findings of fact:

1. The property is directly across the street from a park with several organized sports activities which sometimes can cause disruption in the peace and quiet enjoyment of the property;
2. The additional fence height is necessary to protect property within the front yard.