



City of San Antonio

Agenda Memorandum

File Number:15-3650

Agenda Item Number: 8.

Agenda Date: 6/15/2015

In Control: Board of Adjustment

Case Number: A-15-102
Applicant: Allstate Realty
Owner: Allstate Realty
Council District: 7
Location: 5642 Ivanhoe Street
Legal Description: Lot 41, Block 4, NCB 13892
Zoning: "R-5 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 six foot maximum rear yard fence height, as described in Section 35-514 (d), to allow an eight foot fence, located along the west property line in the rear yard of the property, to remain.

Executive Summary

The subject property is located within the Forest Hills Subdivision, and built in 1985. The applicant is only the third owner of the home and has installed rear fencing without a permit. The fencing was identified by Code Enforcement as construction without a building permit. The applicant is seeking a two foot variance to allow an eight foot fence on the side property line which abuts Marshwood and the Zarzamora Creek to remain. This creek is currently inside a 245 foot wide drainage easement, owned by the City of San Antonio. This wide open space can sometimes become littered and overgrown and the applicant is seeking protection from this potential nuisance. In addition, the applicant explains that the lot slopes toward the creek, causing this shared property line to be 3 feet lower than the remaining portion of the rear yard.

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	Zarzamora Creek

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 also located within the boundaries of the Culebra Park Neighborhood Association, as well as within 200 feet of the boundaries of the Thunderbird Hills Neighborhood Association. As such, both were 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 provide for safety, and also to promote a sense of community. The applicant asserts that the fence is required to secure the property from criminals. 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 rear yard slopes toward the neighboring creek. This change in grade puts the fence significantly lower than other portions of the parcel, reducing the privacy provided by the normal 6 foot fence. 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 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; it separates the home from a wide public drainage easement. 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-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.*

The fence is similar to other fences to this corridor. 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 wide drainage easement, 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-15-102** based on the following findings of fact:

1. The property is directly across the street from a 245 foot wide drainage easement which sometimes can cause disruption in the peace and quiet enjoyment of the property;
2. The additional fence height is necessary because of a grade change on this edge of the property.