



City of San Antonio

Agenda Memorandum

File Number:15-3675

Agenda Item Number: 5.

Agenda Date: 6/15/2015

In Control: Board of Adjustment

Case Number: A-15-095
Applicant: Debra Seidel
Owner: Debra Seidel
Council District: 10
Location: 3603 Boulder Peak
Legal Description: Lot 1, Block 12, NCB 18890
Zoning: "R-5" Residential Single-Family District
Case Manager: Kristin Flores, Planner

Request

A request for a one foot variance from the maximum six foot maximum rear yard fence height, as described in Section 35-514 (d), to allow up to a seven foot tall fence in the rear yard of the property.

Executive Summary

The subject property is located within the San Antonio International Airport Vicinity Plan on the corner of Mineral Spring Drive and Boulder Peak. After moving into the home in April 2014, the applicant replaced an old, broken fence with a new cedar fence. The applicant was cited by code enforcement for a fence built beyond standards. According to application materials, the applicant has experienced trespassing in her backyard pool. In addition, the applicant consulted her neighbor and gained support before construction of the fence. The applicant installed the fencing to increase her security and protection. In addition, the property has a sloping landscape requiring an increased fence height to ensure the fence is straight across the top.

Subject Property Zoning/Land Use

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

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"R-5" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

South	"R-5" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
East	"R-5" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling
West	"R-5" Residential Single-Family Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the San Antonio International Airport Vicinity Plan and currently designated Low Density Residential 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 trespassing patrons. Reducing crime and protection of personal property 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 back 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-5" 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 subject property fence is in keeping with adjacent property and will not alter the essential 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 experience with trespassing, 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-15-095** based on the following findings of fact:

1. The additional fence height is necessary to protect property within the backyard;
2. The fence is in keeping with the character of the community.

Attachments

Attachment 1 - Notification Plan (Aerial Map)

Attachment 2 - Plot Plan (Aerial Map)

Attachment 3 - Site Plan

Attachment 4 - Site Photos