



City of San Antonio

Agenda Memorandum

File Number:15-4111

Agenda Item Number: 3.

Agenda Date: 7/20/2015

In Control: Board of Adjustment

Case Number: A-15-118
Applicant: Sylvia Cepeda
Owner: Sylvia Cepeda
Council District: 1
Location: 2302 & 2304 Santa Barbra
Legal Description: West Irregular 68 Feet of Lot 6, Block 11, NCB 8498
Zoning: "R-4 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager: Kristin Flores, Planner

Request

A request for 1) a two foot variance from the four foot maximum fence height in the front yard, as described in Section 35-514 (d), to allow a six foot fence and 2) a four foot variance from the maximum four foot fence height, as described in Section 35-514 (d), in the front yard to allow an eight foot tall gate.

Executive Summary

The subject property is located at 2302 & 2304 Santa Barbra approximately 245 feet East of Fredericksburg Road. The applicant constructed a six foot tall wrought-iron fence in the front yard of the property. The fence was constructed to protect the family and their property as, per the applicant; she has experienced theft in the past. Staff found several other homes within the community with similar front yard fences. However, a gate height, twice the permitted height, is not common within the neighborhood and is not in keeping with the character of the community.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
"R-4 AHOD" Single-Family Airport Hazard Overlay District	Single-Family Dwelling

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"C-2 AHOD" Commercial Airport Hazard Overlay District	Bingo Hall

South	"R-4 AHOD" Single-Family Airport Hazard Overlay District	Single-Family Dwelling
East	"R-4 AHOD" Single-Family Airport Hazard Overlay District	Single-Family Dwelling
West	"R-4 AHOD" Single-Family Airport Hazard Overlay District	Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association

The property is within the boundaries of the Near Northwest Neighborhood Plan and designated Low Density Residential in the future land use component of the plan. The subject property is located within the boundaries of the Los Angeles Heights 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 protect home owners, and also to provide for a sense of community. The applicant had a six foot tall fence constructed in the front yard of the property without a fence permit and was cited by Code Enforcement. The six foot tall fence was built to deter thefts which, per the applicant, have affected her property in the past. In addition, the fence is composed largely of wrought-iron and stone and thus does not pose an increased fire risk. Staff finds that the additional two feet are not contrary to the public interest.

However, the gate, at eight feet tall, is over twice the permitted height and such a height is not common within the neighborhood and is not in keeping with the character of the community.

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

The special condition present in this case is the mitigation of criminal activity within this community. The applicant had the fence built to protect the home from such crime. The additional two feet of height will serve to protect the home more adequately from such activity.

The gate at eight feet tall does not provide additional protection as the remainder of the fence is six feet tall. In addition, the front fence, which stands at 6 feet tall, would help to mitigate any potential crime.

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

Granting the requested variance would result in substantial justice as the variance would allow the family to adequately protect their home from crime in the community.

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-4 AHOD" 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.*

Staff noted that several homes in this community have similar front yard fences. Staff finds that the request does not detract from the essential character of the community.

Staff noted no other homes in the community which have a gate standing eight feet. A gate, at eight feet in height, is not in keeping with the character of the community.

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 in this case is that the neighborhood has been negatively affected by criminal activity. Staff finds that the request for two additional feet of fence height to protect the home is a legitimate request that is not merely financial in nature, nor the fault of the owner of the property.

While the six foot tall fence will help mitigate any potential crime an eight foot gate does not increase the overall security of the property.

Alternative to Applicant's Request

- 1) Denial of the variance would require the applicant to remove two feet of the fence height to come into compliance with the four foot front yard height limitation, as described in Section 35-514 (d).
- 2) A two foot variance to the permitted fence height, as described in Section 35-514 (d), to allow a gate six feet tall.

Staff Recommendation

Staff recommends **APPROVAL of Variance 1 (fence height) A-15-118** based on the following findings of fact:

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

Staff recommends **DENIAL of Variance 2 (gate height) A-15-118** based on the following findings of fact:

1. The existing gate does not increase security to protect the family from crime in the community;
2. Staff finds the gate, at twice the permitted height, is not in keeping with the character of the community.