



City of San Antonio

Agenda Memorandum

File Number:15-4112

Agenda Item Number: 4.

Agenda Date: 7/20/2015

In Control: Board of Adjustment

Case Number: A-15-119
Applicant: Victor Hernandez
Owner: Victor Hernandez
Council District: 7
Location: 5918 Deer Horn
Legal Description: Lot 13, Block 21, NCB 15048
Zoning: "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager: Kristin Flores, 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, in the rear yard of the property, to remain.

Executive Summary

The subject property is located at 5918 Deer Horn approximately 715 feet east of Warpath Drive. The applicant is seeking a two foot variance to allow an eight foot fence on the rear property line. The fence was constructed on top of an 18 inch concrete wall. As per the applicant, the lot slopes significantly toward the home and, due to the significant changes of topography within the property, storm water runoff has caused damage to the applicant's home. Staff finds the additional height is hardly visible from the street and the overall design of the fence enhances the neighborhood.

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
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	Single-Family Dwelling
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 designated for General Urban Tier Land Uses. The subject property is also located within the boundaries of the Thunderbird Hills 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 provide for safety, and also to promote a sense of community. The applicant asserts that the fence is required to mitigate storm water runoff and protect his property. This is a result of the sloping topography found on the subject property. The 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 rear yard slopes toward the applicant's homes. This change in grade increases storm water runoff directed toward the applicant's homes. This puts increased importance on the concrete base of the fence which works to reduce storm water runoff. A literal enforcement would result in an unnecessary hardship and degradation of the applicant's personal property.

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 and is hardly visible from the street. 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 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 sloping topography, 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-15-119** based on the following findings of fact:

1. The property has dramatic topography changes which has caused storm water runoff to damage to the applicant's home; the fence design helps to mitigate the storm water runoff and stop damage to the applicant's home;
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