



City of San Antonio

Agenda Memorandum

Agenda Date: May 6, 2024

In Control: Board of Adjustment Meeting

DEPARTMENT: Development Services Department

DEPARTMENT HEAD: Michael Shannon

CASE NUMBER: BOA-23-10300316

APPLICANT: Brandon Melland

OWNER: Possum Creek Investments, LLC

COUNCIL DISTRICT IMPACTED: District 10

LOCATION: 10601 and 10515 Nacogdoches Road

LEGAL DESCRIPTION: Lot 53, Block 1, NCB 13873; and Lot 1B, Block 1, NCB 13873

ZONING: "C-3 AHOD" General Commercial Airport Hazard Overlay District and "C-2 AHOD" Commercial Airport Hazard Overlay District

CASE MANAGER: Melanie Clark, Planner

A request for

1) A 5' and 2' special exception from the maximum 3' and 6' fence height to allow an 8' privacy fence in the front, side, and rear yards.

Section 35-514

2) A request for a variance from the fence materials to allow for a corrugated metal fence on the property.

Section 35-514

Executive Summary

The subject property is located on the corner of Starcrest Drive and Nacogdoches Road. The applicant is requesting a 5' special exception from the maximum 3' fence height to allow an 8' privacy fence around the property. The property owner intends to rezone to allow for Long Term Parking, however the requested special exception and variance is not tied to any future use. The

applicant is also seeking a fence material variance to allow the use of corrugated metal panels (along the property) in the proposed design of privacy fence for commercial property.

Code Enforcement History

No Code Enforcement history found.

Permit History

The applicant has not yet applied for the building permit.

Zoning History

The property was annexed by the City of San Antonio by Ordinance 32611, dated September 23, 1964, and zoned “A” Single-Family Residence District. A portion of the property was rezoned by Ordinance 34152, dated March 3, 1966, from “A” Single-Family Residence District to “B-3” Business District. The remaining portion of the property was rezoned by Ordinance 79272, dated December 9, 1993, from “A” Single-Family Residence District to “B-2” and “B-3” Business District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “B-2” and “B-3” Business District converted to the current zoning of “C-2” Commercial District and “C-3” General Commercial District.

Subject Property Zoning/Land Use

Existing Zoning

”C-3 AHOD” General Commercial Airport Hazard Overlay District and “C-2 AHOD” Commercial Airport Hazard Overlay District.

Existing Use

Automotive Service and Sales

Surrounding Property Zoning/ Land Use

North

Existing Zoning

“MF-33 AHOD” Multi-Family Airport Hazard Overlay District

Existing Use

Multi-Family Residence/Apartments

South

Existing Zoning

“C-3 AHOD” General Commercial Airport Hazard Overlay District and “R-6 AHOD” Residential Single-Family Airport Hazard Overlay District

Existing Use

Automotive Service Garage and Lady Bird Johnson Park

East

Existing Zoning

“I-1 AHOD” General Industrial Airport Hazard Overlay District and “C-3 AHOD” General Commercial Airport Hazard Overlay District

Existing Use

Automotive Service Garage
Vacant land

West

Existing Zoning

“C-3 AHOD” General Commercial Airport Hazard Overlay District

Existing Use

Restaurant

Comprehensive Plan Consistency/Neighborhood Association

The subject property is currently located in NE I-35 and Loop 410 Area Regional Center Plan and is designated as “Employment/Flex Mixed Use” in the future land use component of the plan. The subject property is not located within a Neighborhood Association.

Street Classification

Starcrest Drive is classified as a local road.

Nacogdoches Road is classified as a Secondary Arterial Type A.

Criteria for Review – Fence Height Special Exception

According to Section 35-482(h) of the UDC, in order for a variance to be granted, the applicant must demonstrate all of the following:

A. The special exception will be in harmony with the spirit and purpose of the chapter.

The UDC states the Board of Adjustment can grant a special exception for a fence height modification. The fence height being requested is 8’ solid privacy fence. If granted, staff finds that the request would be in harmony with the spirit and purpose of the ordinance, as the fence does not impede corner lot clear vision requirements and would provide the privacy screening on the lot.

B. The public welfare and convenience will be substantially served.

In this case, fence height does not appear to interfere with the public’s welfare and convenience as these criteria are represented through the privacy and protection property owners while still promoting a sense of community.

C. The neighboring property will not be substantially injured by such proposed use.

The special exception will not injure the neighboring properties as the fence height will not impede traffic or clear vision requirements as the proposed fence would be installed a safe distance from front setback.

D. The special exception will not alter the essential character of the district and location in which the property for which the special exception is sought.

The additional fence height on the property will not alter the location for which the special exception is sought, as the front of the commercial property faces a Secondary Arterial Type A. Additionally, Industrial uses and Commercial abutting Residential uses exist on surrounding lots, that permit an 8' privacy perimeter fence.

- E. The special exception will not weaken the general purpose of the district, or the regulations herein established for the specific district.*

The requested special exception will not weaken the general purpose of the district as the placement of the fence is well within the minimum front setback requirements per Sec 35-514.

Criteria for Review – Fence Material Variance

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, the public interest is represented by restricted fence materials to provide uniformity within a community. The variance is contrary to the public interest as the corrugated metal fencing conflicts with UDC Sec. 35-514(6)(d). Additionally, the subject property is located on corner lot along a secondary arterial street.

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

Staff found no special conditions on the subject property that would warrant the applicant to construct a fence with prohibited fence materials. A literal enforcement of the ordinance would not result in an unnecessary hardship as the applicant would need to switch the corrugated metal with an allowable fence material.

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

The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. In this case, the spirit of the ordinance will not be observed, as the rules and regulations for fence materials were intended to provide consistency and uniformity within an established community.

- 4. The variance will not authorize the operation of a use other than those uses specifically authorized in the zoning district in which the variance is located.*

No uses other than those allowed within the district will be allowed with this variance.

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.*

If granted, this will injure the appropriate use of adjacent conforming properties and alter the essential character of the district as the use of corrugated metal fencing was not observed within the surrounding area.

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.*

Staff finds the plight of the owner of the property for which the variance is sought is not due to any unique circumstances existing on the property as the applicant can redesign fence plans to incorporate allowable fence materials for the purpose of privacy and security.

Alternative to Applicant's Request:

The alternative to the applicant's request is to conform to the fence regulations under Section 35-514 of the Unified Development Code.

Staff Recommendation – Fence Height Special Exception

Staff recommends Approval in BOA-23-10300316 based on the following findings of fact:

1. The proposed fence height does not interfere with the public welfare and convenience, as the fence will not impede clear vision requirements.
2. The fence will provide additional privacy and security for the property.

Staff Recommendation – Fence Material Variance

Staff recommends Denial in BOA-23-10300316 based on the following findings of fact:

1. The public and immediate property owners can observe the materials from the public right of way.
2. The use of corrugated metal fencing was not observed in the surrounding area.