

Case Number:	BOA-23-10300310
Applicant:	Francisco Gomez
Owner:	Francisco Gomez & Edith
Council District:	4
Location:	9103 Seafarer Drive
Legal Description:	Lot 30, Block 47, NCB 17527
Zoning:	“R-6 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District
Case Manager:	Bronte Frere, Planner

Request

A request for a variance from the fence materials, as described in Section 35-514(a)(6), to allow for a corrugated metal fence in the side and rear yard.

Executive Summary

The subject property is located at the corner of Seafarer Drive and Old Sky Harbor Drive. The property was found to have a corrugated metal fence constructed in the side and rear yard of the property. Upon site visits, no other corrugated metal fences were observed in the area. Fences constructed with the approved materials were found on surrounding properties. No other variance requirements were found on the property.

Code Enforcement History

INV-PBP-23-3100003167: PMT- Building Without A Permit, status Pending Resolution September 2023

INV-PBP-23-3100000963: PMT- Building Without A Permit- February 2023

INV-PBP-23-3100004976: PMT- Building Without A Permit- December 2023

INV-PBP-23-3100004977: PMT- Building Without A Permit- December 2023

Permit History

The issuance of a fence permit will depend on the Board of Adjustment decision.

Zoning History

The property was annexed into the City of San Antonio in 1984 and was originally zoned Temporary “R-1” Single-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “R-1” Single-Family Residence District converted to “R-6” Residential Single-Family District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-6 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport hazard Overlay District.	Single-Family Residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
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North	“R-6 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport hazard Overlay District.	Single-Family Residence
South	“R-6 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport hazard Overlay District.	Single-Family Residence
East	“R-6 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport hazard Overlay District.	Single-Family Residence
West	“R-6 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport hazard Overlay District.	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the United Southwest Communities Plan component of the Neighborhood Community Perimeter Plans and is designated “Low Density Residential” in the Future Land Use component of the plan. The property is not within the boundaries of a Neighborhood Association.

Street Classification

Seafarer Drive and Old Sky Harbor Drive are classified as Local Streets.

Criteria for Review – Fence Material

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 the required materials for constructing a fence. The applicant is requesting an exception to the approved fence materials as defined in the Unified Development Code Section 35-514 to allow for a corrugated metal fence. The request is contrary to the public interest, as corrugated metal is a prohibited material for fence construction and would be uncharacteristic of the surrounding area if allowed.

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 permit an exception to the approved fence materials as defined in the Unified Development Code Section 35-514(a)(6).

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. The structure does not appear to observe the spirit of the ordinance, as it is constructed from prohibited fencing materials.

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.*

Staff finds the granting of the variances will substantially injure the appropriate use of adjacent conforming properties or alter the essential character of the district in which the property is located, as the fence is constructed of prohibited fencing materials as defined in the Unified Development Code Section 35-514(a)(6). Upon visiting the site, staff found no fences constructed of corrugated metal in the immediate 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 unique circumstances existing on the property, as there are approved fence materials for constructing a fence outlined in the Unified Development Code Section 35-514(a)(6). There are fences constructed within the Unified Development Code's guidelines in the immediate surrounding area.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the fence material requirements of the UDC Sec. 53-514(a)(6).

Staff Recommendation – Fence Material Variance

Staff recommends Denial in BOA-23-10300310 based on the following findings of fact:

1. The structure appears to alter the essential character of the district as it is constructed of prohibited fence material.
2. There are no unique circumstances on the property that merit deviation from the required fence material and there are no other similar fences in the area.