



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** September 9, 2024

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

**DEPARTMENT HEAD:** Amin Tohmaz, Interim Department Head

**CASE NUMBER:** BOA-24-10300151

**APPLICANT:** Ana Juarez

**OWNER:** Ana Juarez

**COUNCIL DISTRICT IMPACTED:** District 5

**LOCATION:** 215 South Elmendorf

**LEGAL DESCRIPTION:** North 71.91 feet of Lot 7, Block 7, NCB 2327

**ZONING:** "MF-33 MLOD-2 MLR-2 AHOD" Multi-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

**CASE MANAGER:** Colton Uden, Planner

**A request for**

1) A 9'-11" variance from the minimum 10' front setback to allow a residential structure to be 1" from the front setback.

Section 35-310.01 (Table 310-1)

2) A 17'-6" variance from the minimum 20' rear setback to allow a 2'-6" rear setback.

Section 35-310.01 (Table 310-1)

3) A 307 square feet variance from the minimum lot size requirement of 4,000 square feet to allow a 3,693 square feet lot.

Section 35-310.01 (Table 310-1)

4) A 5' variance from the minimum 15' clear vision to allow a 10' driveway clear vision.

Section 35-514(a)(2)

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

Section 35-514(a)(6)

6) A 3' special exception from the maximum 3' fence height to allow a 6' privacy fence in the front yard.

Section 35-514

### **Executive Summary**

The subject property is located along South Elmendorf Street, south of Buena Vista Street, located within the Prospect Hill Neighborhood Association. The applicant is seeking to develop a single-family home on a MF-33 lot. Pursuant to Note (4) in Section 35-310.01 of the Unified Development Code, single-family lot development within an “MF” multi-family zoning district shall meet the minimum lot requirements for an “R-4” zoning district. The lot is flanked by an adequately portioned R-6 in the rear and abuts another MF-33 to the south that is similarly built within the rear and front setbacks under the current code for a single-family structure in a multi-family district.

### **Code Enforcement History**

No relevant code enforcement history.

### **Permit History**

REP-MBR-APP23-35008265-Minor Building Repair

RES-FEN-APP23-31800650-Residential Fence

REP-MBR-APP23-35000068-Minor Building Repair (Foundation)

REP-MBR-APP23-35000070-Minor Building Repair (Remodel)

MEP-GAS-PMT23-34235278-Gas Permit

MEP-PLM-PMT23-34335242-Plumbing Permit

### **Zoning History**

The subject property was included in the original 36 square miles of the City of San Antonio and was originally zoned “C” Apartment District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “C” Apartment District converted to the current “MF-33” Multi-Family District.

### **Subject Property Zoning/Land Use**

#### **Existing Zoning**

“MF-33 MLOD-2 MLR-2 AHOD” Multi-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

#### **Existing Use**

Single-Family Dwelling

### **Surrounding Property Zoning/ Land Use**

#### **North**

#### **Existing Zoning**

“R-6 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay  
Military Lighting Region 2 Airport Hazard Overlay District

**Existing Use**

Single-Family Dwelling

**South**

**Existing Zoning**

“MF-33 MLOD-2 MLR-2 AHOD” Multi-Family Lackland Military Lighting Overlay Military  
Lighting Region 2 Airport Hazard Overlay District

**Existing Use**

Single-Family Dwelling

**East**

**Existing Zoning**

“R-6 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay  
Military Lighting Region 2 Airport Hazard Overlay District

**Existing Use**

Single-Family Dwelling

**West**

**Existing Zoning**

“R-6 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay  
Military Lighting Region 2 Airport Hazard Overlay District

**Existing Use**

Single-Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Guadalupe Westside Community Plan and is designated as “Low Density Residential” in the future land use component of the plan. The subject property is located within the Prospect Hill Neighborhood Association, and they have been notified of this request.

**Street Classification**

South Elmendorf is classified as a Local Street.

**Criteria for Review – Front Setback, Rear Setback, Minimum Lot Size, Clear Vision and Corrugated Fence Material Variances**

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. The variances requested to the setbacks appear to be contrary to the public interest as inadequate space for fire safety and water runoff will remain, aggravating these issues. The variance requested for corrugated fence material appears to be contrary to the public interest as no other properties appear to use this prohibited fence material in the immediate vicinity.

The lot size and clear vision variance are not contrary to the public interest as the lot is minimally short of the required lot size and a 10' driveway clear vision will remain to safely back into a residential street.

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

A literal enforcement of the setback and fencing material ordinances would not result in an unnecessary hardship as the applicant will have the opportunity to more suitably rezone.

A literal enforcement of the clear vision and lot size ordinances would result in unnecessary hardship as the lot would be undevelopable.

*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 requested setback and fence material variances appears to not be in the spirit of the ordinance as inadequate spacing will remain for fire safety and water runoff and furthermore the extent of these variances and the fence material are not seen on other properties in the immediate vicinity, making it out of character for the district.

The requested clear vision and lot size variances appears to be in the spirit of the ordinance as the lot can maintain a single-family dwelling and no aggravating factors exist that prevent accommodations for a reduced a driveway clear vision.

*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 that the setback and fence material variances would substantially injure the appropriate use of adjacent properties as many other lots do not infringe into the setbacks to the extent requested, creating fire safety and water runoff issues as well as no other corrugated metal fencing seen in the immediate vicinity of the area further putting the requests out of character for the district in which the property is located.

Staff finds that the clear vision and lot size variances would not substantially injure the appropriate use of adjacent properties as the lot size and clear vision does not directly impact any neighboring properties.

*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. The applicant can reduce the structure to meet required setback and rebuild the fence with permitted materials.

The property cannot be developed without a lot size variance and will require a reduced fence line from the established developed area to meet the clear vision standard.

### **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. If granted, the special exception will be contrary to the spirit and purpose of the Chapter. No other fences were seen in the immediate area exceeding the guidelines of the UDC.

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

In this case, these criteria are represented by fence heights to protect property owners while still promoting a sense of community. The proposed fence will not add to the protection of the property beyond what is afforded by following the guidelines of the UDC.

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

The privacy fence as requested would substantially injure neighboring properties as a fence height of this extent in the front yard is not seen in the immediate vicinity.

*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.*

Upon inspection of the district and location, the fence height will alter the essential characteristics of the district.

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

If granted, the special exception will alter the general purpose of the district, or the regulations herein established for the specific district. The fence exceeds the height regulations by 3-feet and will not enhance the security of the property beyond what can be afforded by following the guidelines of the UDC.

### **Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the front setback, rear setback, minimum lot size requirements of the UDC Section 35-310.01 (Table 310-1) and the corrugated fence material, fence height and clear vision requirements of the UDC Section 35-514.

**Staff Recommendation – Minimum Lot Size and Clear Vision Variances**

Staff recommends Approval in BOA-24-10300151 based on the following findings of fact:

1. The lot size variance is minimal, and the lot can maintain a single-family dwelling.
2. No aggravating factors exist that prevent accommodations for a reduced a driveway clear vision.

**Staff Recommendation – Front Setback, Rear Setback, and Corrugated Fence Material Variances**

Staff recommends Denial in BOA-24-10300151 based on the following findings of fact:

1. The reduced setbacks will aggravate fire safety and water runoff issues.
2. No other properties within the immediate vicinity exhibited corrugated fence material.
3. The requests will alter the essential character of the district.

**Staff Recommendation – Fence Height Special Exception**

Staff recommends Denial in BOA-24-10300151 based on the following findings of fact:

1. No other properties in the area exhibited a fence height in excess of UDC guidelines.
2. The request will alter the essential character of the district.