



City of San Antonio

Agenda Memorandum

Agenda Date: April 21, 2025

In Control: Board of Adjustment Meeting

DEPARTMENT: Development Services Department

DEPARTMENT HEAD: Michael Shannon, Director

CASE NUMBER: BOA-25-10300049

APPLICANT: Law office of EAR PLLC

OWNER: Gilberto and Marla Ponce

COUNCIL DISTRICT IMPACTED: District 4

LOCATION: 3400 Pitluk Avenue and 7434 New Laredo Highway

LEGAL DESCRIPTION: Southeast irregular 119.20 of Lot 33, NCB 11264 and the southwest 260.20 of Lot 33, NCB 11264

ZONING: "C-3 NA MLOD-2 MLR-2 AHOD" General Commercial Nonalcoholic Sales Lackland Military Lighting Overlay Military Lighting Region 2 Airport hazard Overlay District and "C-3 MLOD-2 MLR-2 AHOD" General Commercial Lackland Military Lighting Overlay Military Lighting Region 2 Airport hazard Overlay District

CASE MANAGER: Melanie Clark, Planner

A request for

1) A 3'-2" special exception from the maximum 6' fence height to allow an 8' solid fence, with 9'-2" support beams, in the side and rear yard.

Sec 35-514 (c)(1)

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

Sec 35-514 (a)(6)(d)

3). A 13'-9" variance from the minimum 25' corner clear vision to allow a 11'-3" corner clear vision.

Sec 35-514 (a)(2)(a)

Executive Summary

Subject property is located south of S.E Military Drive, west of Somerset Road on the on the corner of New Laredo Highway and Pitluk Avenue. On August 8, 2024, Code Enforcement investigated the subject property for a fence constructed without a permit. Code Enforcement instructed the property owner to obtain a permit for the fence. One September 18, 2024, the property owners submitted for a fence permit, but were unable to obtain approval. The applicant, on behalf of the property owners, is requesting a 3'-2" fence height special exception as well as a fence material variance to allow an 8' corrugated metal fence, with 9'-2" support beams, to remain along the side and rear portions of two adjoining lots. Additionally, during the site visit, Staff annotated that the fence, adjoined on the corner of Pitluk Avenue and Masters Street, required a 13'-9" corner clear vision variance as the fence did not meet the required 25' corner clear vision distance. While the property is zoned commercial, the residential uses across the street require the clear vision standards of residential streets. Permits are pending the outcome of the Board of Adjustment.

Code Enforcement History

INV-PBP-24-3100004524- PMT-Building Without A Permit

COD-ADH-REQ25-43900083- Administrative Hearing

Permit History

COM-PRJ-APP24-39802057-Minor Structures-Fence

Zoning History

Subject property was annexed into the City of San Antonio by Ordinance 18115 dated September 24, 1952, and zoned "F" Local Retail District. A portion of the property was rezoned by Ordinance 49274 dated, April 20, 1978, from "F" Local retail District to "B-3" Business District and the remaining portion was rezoned to "B-2" Business District. The portion of the property zoned "B-2" Business District was rezoned by Ordinance 93308 dated, January 25, 2001, to "B-3NA" Business District, Non-Alcoholic Sales. With the adoption of the 2001 Unified Development Code (UDC), established by Ordinance 93881, on May 3, 2001, the subject property converted from "B-3" Business District and "B-3NA" Business District, Non-Alcoholic Sales to "C-3" General Commercial District and "C-3NA" General Commercial Nonalcoholic Sales District.

Subject Property Zoning/Land Use

Existing Zoning

"C-3 NA MLOD-2 MLR-2 AHOD" General Commercial Nonalcoholic Sales Lackland Military Lighting Overlay Military Lighting Region 2 Airport hazard Overlay District and "C-3 MLOD-2 MLR-2 AHOD" General Commercial Lackland Military Lighting Overlay Military Lighting Region 2 Airport hazard Overlay District

Existing Use

Auto Repair

Surrounding Property Zoning/ Land Use

North

Existing Zoning

“C-3 MLOD-2 MLR-2 AHOD” General Commercial Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

“C-2 S MLOD-2 MLR-2 AHOD” Commercial Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District with Specific Use Authorization for Reception Hall

Existing Use

Automotive Service Garage

Reception Hall

South

Existing Zoning

“C-3 MLOD-2 MLR-2 AHOD” General Commercial Lackland Military Lighting Overlay Military Lighting Region 2 Airport hazard Overlay District

Existing Use

Vacant Land

East

Existing Zoning

“RM-4 MLOD-2 MLR-2 AHOD” Residential Mixed Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

Existing Use

Single Family Residence

West

Existing Zoning

“C-3 MLOD-2 MLR-2 AHOD” General Commercial Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

“I-1 MLOD-2 MLR-2 AHOD” General Industrial Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

“C-3R MLOD-2 MLR-2 AHOD” General Commercial Restrictive Alcoholic Sales Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

Existing Use

Automotive Service Garage

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the West/Southwest Sector Plan and is designated as “Suburban Tier” in the future land use component of the plan. The subject property is not located within the boundary of a registered neighborhood association.

Street Classification

New Laredo Highway is classified as a Secondary Arterial Type A.

Pitluk Avenue is classified as a local road.

Criteria for Review – Fence Material and Corner Clear Vision 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. In this case, the public interest is represented by adhering to fence material and corner clear vision guidelines to provide uniformity, safety, security, and appeal to neighborhood characteristics. The fence material variance and corner clear vision is contrary to the public interest as the fence material utilized is prohibited within the city and a 11'-3" corner clear vision impedes the safety of drivers in the area.

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

A literal enforcement of the fence material ordinances would not result in unnecessary hardship as the applicant can reconstruct a fence in compliance with the Unified Development Code's guidelines that provides security and privacy while utilizing an allowed material and maintaining the corner clear vision requirements.

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

The requested fence material and corner clear vision variance does not appear to be in the spirit of the ordinance as the fence material utilized is prohibited within the city and approved use of corrugated fencing and reduced corner clear vision was not observed in the immediate surrounding area.

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 fence material and corner clear vision variance would substantially injure the appropriate use of adjacent properties as the fence material utilized is prohibited within the city, the property is adjacent to single-family dwellings, and the corner clear vision restricts the view for drivers and pedestrians utilizing the right of way.

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 no unique circumstances existing on the property for the fence material variance as security and privacy can be afforded by allowed fence materials and there is adequate space on the lot to adhere to the corner clear vision requirements.

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 an 8' solid fence, with 9'-2" support beams, in the side and rear yard. If granted, staff finds the request would not be in harmony with the spirit and purpose of the ordinance, as the ordinance calls for a limited height for side and rear yard fences.

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 does not appear to serve the public welfare, as there were no similar fences in the immediate surrounding area.

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

The fence special exception does not appear to create any additional enhanced security and privacy for the subject and adjacent properties if it does not conform to the original Unified Development Code privacy fence guidelines.

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 in the side and rear yard appears to alter the location for which the special exception is sought, as no similar styled fences were observed to be in the immediate surrounding area.

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 weaken the general purpose of the district as it will introduce a side and rear yard solid fence exceeding the established Unified Development Code fence height standards.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Fence Regulations of Section 35-514 of the Unified Development Code.

Staff Recommendation – Fence Material and Corner Clear Vision Variance

Staff recommends Denial in BOA-25-10300049 based on the following findings of fact:

1. There are no unique circumstances on the property that merit deviation from the required fence material and security can be provided on the lot by a non-prohibited fence material.
2. The property is adjacent to single-family dwellings to the east and the industrial-like fence material will adversely impact the neighborhood look and character.
3. The fence obstructs the vision of oncoming traffic at Pitluk Avenue and Masters Street intersection, and no other fences are encroached into the corner clear vision in the immediate vicinity.

Staff Recommendation – Fence Height Exception

Staff recommends Denial in BOA-25-10300049 based on the following findings of fact:

1. The fence special exception does not appear to create any additional enhanced security and privacy.
2. The fence special exception will alter the essential characteristics of the district in which the property is located.