



City of San Antonio

Agenda Memorandum

Agenda Date: February 10, 2025

In Control: Board of Adjustment Meeting

DEPARTMENT: Development Services Department

DEPARTMENT HEAD: Michael Shannon, Director

CASE NUMBER: BOA-25-10300006

APPLICANT: Matthew Rodriguez-Leyva

OWNER: Mary Ann Howe Leyva

COUNCIL DISTRICT IMPACTED: District 2

LOCATION: 724 Sandmeyer Street

LEGAL DESCRIPTION: North 90 feet of Lot 6, Block 6, NCB 1177

ZONING: "R-6 MLOD-3 MLR-2" Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 District

CASE MANAGER: Melanie Clark, Planner

A request for

1) A 7' variance from the maximum 3' front fence height to allow a 10' front yard privacy fence.
Section 35-514 (C)(1)

2) A 4' variance from the maximum 6' fence height to allow a 10' side and rear yard privacy fence.
Section 35-514 (C)(1)

3) A 16' variance from the minimum 25' corner clear vision to allow a 9' corner clear vision.
Section 35-514 (2)(a)

4) A 6' variance from the minimum 15' driveway vision to allow a 9' driveway clear vision.
Section 35-514 (2)(a)

5) A request for a variance from the fence materials to allow for a corrugated metal fence on the property.
Section 35-514 (6)(d)

Executive Summary

Subject property is located north of Interstate 35, west of North Walters Street, on the corner intersection of Edgar Avenue and Sandmeyer Street. On December 5, 2024, Code Enforcement responded to a Citizen Call for a fence, constructed around a vacant residential lot, without a permit. The applicant stated to Code Enforcement that Texas Legislation provides authority to install a defensive fence without a permit. Code Enforcement explained that local regulation requires a permit. The applicant, on behalf of the property owner, is seeking a 7' fence height variance to allow a 10' front yard fence, a 4' variance to allow a 10' side and rear yard fence, a 16' corner clear vision variance to allow a fence to be 9' from the corner clear vision and a fence material variance to allow for corrugated metal fence around the property.

Code Enforcement History

INV-ZRD-24-3170003354-Zoning UDC Investigation
INV-VOB-24-2750037210-Property Maintenance Investigation
COD-AHD-REQ25-43900139- Administration Hearing
COD-ADH-REQ25-43900138-Administration Hearing

Permit History

The applicant has not yet applied for the building permit.

Zoning History

Subject property is a part of the original 36 square miles of the City of San Antonio and zoned "C" Apartment District. The property was rezoned by Ordinance 51898 dated, February 28, 1980, to "R-1" Single-Family Residence District. With the adoption of the 2001 Unified Development Code (UDC), established by Ordinance 93881, on May 3, 2001, the subject property converted from "R-1" Single-Family Residence District to "R-6" Residential Single-Family District.

Subject Property Zoning/Land Use

Existing Zoning

"R-6 MLOD-3 MLR-2" Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 District

Existing Use

Vacant Lot

Surrounding Property Zoning/ Land Use

North

Existing Zoning

"R-6 MLOD-3 MLR-2" Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 District

Existing Use

Single-Family Residence

South**Existing Zoning**

“R-6 MLOD-3 MLR-2” Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 District

Existing Use

Single-Family Residence

East**Existing Zoning**

“C-1 MLOD-3 MLR-2” Commercial Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2

Existing Use

Single-Family Residence

West**Existing Zoning**

“R-6 MLOD-3 MLR-2” Residential Single-Family Martindale Army Air Field Military Lighting Overlay Military Lighting Region 2 District

Existing Use

Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Eastside Community Area Plan and is designated as “Urban Low Density Residential” in the future land use component of the plan. The subject property is located within the notification area of Government Hill Neighborhood Association and the Government Hill Tomorrow Community Organization, and they have been notified of the request.

Street Classification

Sandmeyer Street is classified as a local road.

Edger Avenue is classified as a local road.

Criteria for Review – Clear Vision, Fence Height and 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, to observe the safety of vehicular traffic for those traveling across the intersection, the 9’ variance to the corner and driveway clear vision standards appears to be contrary to the public interest as it will create a driving hazard along the corner of Sandmeyer Street and Edger Avenue and from the abutting driveway. Additionally, 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. The requested fence height is contrary to the public interest as emergency responders would be hindered from properly responding to various situations.

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 and a literal enforcement of the clear vision standards would not result in unnecessary hardship, as the applicant as there is space on the property to relocate fence. The permitted fence height would not result in unnecessary hardship as the code permits an appropriate fence height on vacant lots.

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 and the clear vision obstructs the view of drivers in the local area. The additional fence height does not appear to observe the spirit of the ordinance as it creates a fortress type structure on a residential neighborhood.

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 and alter the essential character of the district in which the property is located, as the fence is constructed of prohibited fencing materials and no other fences in the immediate vicinity that were encroaching into the corner clear vision. The additional fence height would also alter the essential character of the district by creating a sense of seclusion and altering the overall aesthetic of the 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. The property owner has the option to adjust the fence material, relocate and shorten the fence.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Fence Height, Fence Material and Clear Vision Regulations of Section 35-514 of the Unified Development Code.

Staff Recommendation – Clear Vision, Fence Height, and Fence Material Variance

Staff recommends Denial in BOA-25-10300006 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 there are no other similar fences in the area.
2. The variance will alter the essential character of the district as no other fences encroached into the clear vision in the immediate vicinity and would create a sense of seclusion.