



# City of San Antonio

## Agenda Memorandum

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**Agenda Date:** April 7, 2025

**In Control:** Board of Adjustment Meeting

**DEPARTMENT:** Development Services Department

**DEPARTMENT HEAD:** Michael Shannon, Director

**CASE NUMBER:** BOA-25-10300037

**APPLICANT:** Raymond Johnson

**OWNER:** Raymond Johnson L JR

**COUNCIL DISTRICT IMPACTED:** District 1

**LOCATION:** 9103 Callaghan Road

**LEGAL DESCRIPTION:** Lot 28, Block 3, NCB 14105

**ZONING:** "R-5" Residential Single-Family District

**CASE MANAGER:** Vincent Trevino, Senior Planner

**A request for**

1) A 4'-6" fence height special exception from the maximum 3' solid front yard fence height to allow a 7'-6" privacy fence in the front yard.

Section 35-514

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

Section 35-514(a)(2)

**Executive Summary**

Subject property is located on Callaghan Road, northwest of Vance Jackson Road, within blocks of KIPP Academy. On February 7, 2025, Code Enforcement responded to a Citizen Call for a privacy fence constructed without a permit. The applicant is seeking a 4'-6" fence height variance to allow a 7'-6" front yard fence and a 5' clear vision variance to allow a fence to be 10' from the

street curb. In 2011, the Board of Adjustment approved a 6' front yard privacy fence height for 9022 Callaghan Road. Multiple side/rear yard fences face Callaghan Road in the area.

### **Code Enforcement History**

INV-ZRD-25-3170000348- Zoning UDC Investigation

### **Permit History**

RES-RBP-PMT23-36605144 – Residential New Building Permit

MEP-MEC-PMT24-33903023 – Mechanical Permit

COO-RES24-38004918 – Certificate of Occupancy - Residential

### **Zoning History**

Subject property was annexed into the City of San Antonio by Ordinance 18115 dated, September 24, 1952, and zoned “A” 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 “A” Single-Family Residence District to “R-5” Residential Single-Family District.

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

#### **Existing Zoning**

“R-5” Residential Single-Family District

#### **Existing Use**

Single-Family Residence

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

#### **North**

#### **Existing Zoning**

“R-5” Residential Single-Family District

#### **Existing Use**

Single-Family Residence

#### **South**

#### **Existing Zoning**

“R-5” Residential Single-Family District

#### **Existing Use**

Single-Family Residence

#### **East**

#### **Existing Zoning**

“R-5” Residential Single-Family District

#### **Existing Use**

Single-Family Residence

#### **West**

#### **Existing Zoning**

“R-5” Residential Single-Family District

#### **Existing Use**

Single-Family Residence

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the North Sector Plan and is designated as “Suburban Tier” in the future land use component of the plan. The subject property is located within the Women in Film & Television San Antonio and San Antonio Texas District One Resident Association Community Organizations, and they have been notified of the request.

**Street Classification**

Callaghan Road is classified as a Secondary Arterial Type A

**Criteria for Review – Driveway Clear Vision Variance**

According to Section 35-482(e) of the UDC, 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 5’ variance to the Clear Vision Standards appears to be contrary to the public interest as it will create a driving hazard along Callaghan Road.

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

A literal enforcement of the Clear Vision Standards would not result in unnecessary hardship, as there is adequate space on the property to relocate fence.

*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 clear vision obstructs the view of drivers in the local 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 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 no other constructed fences in the immediate vicinity are encroaching into the clear vision.

*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 relocate the fence.

**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 7'-6" for the front of the 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 front yard privacy fences.

Thus, Staff finds that a 6' front yard privacy fence would be in harmony with the spirit and purpose of the ordinance, as the street is classified as a Secondary Arterial, and several side/rear yard fences front Callaghan Road.

*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 fences like the proposed design in the immediate surrounding area.

Again, Staff finds that a 7'-6" fence is excessive, but as an alternative a 6' front yard fence will serve the public welfare as it will match the existing appearance and previously approved variance.

*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 combined fence guidelines.

The proposed 7'-6" fence would injure neighboring properties, but an alternate 6' front yard fence will not injure neighboring properties as the immediate area is dominated with 6' privacy fences.

*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 front 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.

Whereas a 7'-6" fence will not be in character with the area. An alternative of a 6' front yard privacy fence will not alter the essential character of the district and location as it will only match the immediate 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 front yard privacy fence exceeding the established Unified Development Code fence standards.

The proposed 7'-6" fence exceeds fence heights in the area and weakens the purpose of the district. However, a special exception for a 6' privacy front yard fence will not weaken the general purpose as multiple side/rear fences face Callaghan Road.

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

The alternative to the applicant's request is to conform to the Clear Vision Regulations of the UDC Section 35-514(a)(2) and Fence Height Regulations of the UDC Section 35-514.

#### **Staff Recommendation – Driveway Clear Vision Variance**

Staff recommends Denial in BOA-25-10300037 based on the following findings of fact:

1. There are no unique circumstances on the property that merit deviation from the required Clear Vision requirement.
2. The variance will alter the essential character of the district as no other fences encroached into the clear vision in the immediate vicinity.

#### **Staff Recommendation – Fence Height Special Exception**

Staff recommends Denial of a 7'-6" fence in BOA-25-10300037 **with an alternate recommendation of a 6' front yard privacy fence** based on the following findings of fact:

1. The fence special exception will alter the essential character of the district as no other properties in the immediate area have fences exceeding the regulations of the Unified Development Code in height and privacy.
2. The fence will match the multiple side/rear yard fences facing Callaghan Road and the previously approved front yard privacy fence.