



City of San Antonio

Agenda Memorandum

Agenda Date: March 24, 2025

In Control: Board of Adjustment Meeting

DEPARTMENT: Development Services Department

DEPARTMENT HEAD: Michael Shannon, Director

CASE NUMBER: BOA-25-10300004

APPLICANT: Olivas Armendariz

OWNER: Olivas Armendariz

COUNCIL DISTRICT IMPACTED: District 5

LOCATION: 306 South General McMullen, 4538 Monterey Street, and 4534 Monterey Street

LEGAL DESCRIPTION: Lot 43, Block 49, NCB 8196 and Lot 4, 5, Un-Div Int 1A, Block 9, NCB 8196

ZONING: "C-3R MLOD-2 MLR-2 AHOD" General Commercial Nonalcoholic Sales Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District and "R-4 MLOD-2 MLR-2 AHOD" Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

CASE MANAGER: Colton Unden, Planner

A request for

1) A fence material variance to allow corrugated metal fencing.
Section 35-514 (a)(6)

2) A 4' fence height special exception from the maximum 3' height to allow a 7' privacy fence along the front yard of the lots facing Monterey Street.
Section 35-514 (c)(1)

3) A 1' fence height special exception from the maximum 6' height to allow a 7' privacy fence along the side and rear yard of the easternmost lot.

Section 35-514 (c)

Executive Summary

The subject property is located along South General McMullen and Monterey Street, south of West Commerce Street, located within the Las Palmas Neighborhood Association. Applicant had a fence constructed without a permit and received a violation notice from Code Enforcement in December 2024. The fence is a corrugated metal fence surrounding the rear and side yards measuring 7'. The property consists of a concrete lot and a garage structure. The applicant will not be doing commercial activities on the residential portion of the lot where a portion of the fence height special exception is needed, and it is considered vacant. A single-family use lot abutting a commercial lot is permitted an 8' fence on the side and rear, however this does not apply to a vacant residential lot.

Code Enforcement History

INV-PBP-24-3100006862 - PMT-Building Without A Permit – Pending Resolution

INV-PBP-23-3100004322 - PMT-Building Without A Permit – Closed

INV-PBP-21-3100004298 - PMT-Building Without A Permit – Closed

Permit History

COM-BLG-PMT23-40200895 – Active

COM-SIT-PMT23-40100349 - Complex Plans Olivas Tire Shop – Active

Zoning History

The subject property was annexed by the City of San Antonio by Ordinance 1258, dated August 2, 1944, and originally zoned “JJ” Commercial District. The property was rezoned by Ordinance 73389, dated March 28, 1991, to “B-3R” Restrictive Business District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “B-3R” Restrictive Business District converted to the current “C-3R” General Commercial Nonalcoholic Sales District.

Subject Property Zoning/Land Use

Existing Zoning

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

Existing Use

Tire Shop

Surrounding Property Zoning/ Land Use

North

Existing Zoning

“R-4 HL MLOD-2 MLR-2 AHOD” Residential Single-Family Historic Landmark Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

Existing Use

Single-Family Dwelling

South

Existing Zoning

“R-4 HL MLOD-2 MLR-2 AHOD” Residential Single-Family Historic Landmark Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

Existing Use

Single-Family Dwelling

East

Existing Zoning

“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District

Existing Use

Vacant Lot

West

Existing Zoning

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

Existing Use

Auto and Light Truck Repair

Comprehensive Plan Consistency/Neighborhood Association

The subject property is not located within any future land use plans. The subject property is located within the Las Palmas Neighborhood Association, and they have been notified of this request.

Street Classification

South General McMullen is classified as a Primary Arterial Type A.

Monterey Street is classified as a Local Road.

Criteria for Review – 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, the public interest is represented by adhering to fence material guidelines to provide uniformity, safety, security, and appeal to neighborhood characteristics. The fence material variance is contrary to the public interest as the fence material utilized is prohibited within the city and was not observed in the immediate surrounding 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.

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

The requested fence material variance does not appear to be in the spirit of the ordinance as the fence material utilized is prohibited within the city and 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 variance would substantially injure the appropriate use of adjacent properties as the fence material utilized is prohibited within the city, is abutting single-family dwellings that are utilizing allowed fence materials, and corrugated fence material was not observed 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 no unique circumstances existing on the property for the fence material variance as security and privacy can be afforded by allowed fence materials.

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' for the front, side, and rear yards of a vacant residential lot and partially on the front yard of a commercial lot. If granted, staff finds the request would not be in harmony with the spirit and purpose of the ordinance, as additional security will not be afforded and no other properties in the area exceeded the UDC fence height guidelines.

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 the fence will be located on a vacant residential portion of the lot and no other properties in the immediate area exceed the fence height guidelines of the UDC.

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

The fence height special exception does not appear to create additional enhanced security and privacy for the subject and adjacent properties. Neighboring property will be substantially injured as the fence height is uncharacteristic for the neighborhood and district in which it is located and will be abutting single-family residential use.

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 does appear to alter the location for which the special exception is sought, as the taller fence will be abutting single-family residential use in a neighborhood where fences exceeding the UDC guidelines are uncharacteristic.

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 be a towering privacy fence abutting single-family residential use and no other properties in the immediate area exceed the UDC guidelines on fence height.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the fence material and fence height requirements of the UDC Sections 35-514 (a)(6) and 35-514 (c).

Staff Recommendation – Fence Material Variance

Staff recommends Denial in BOA-25-10300004 based on the following findings of fact:

1. Security can be provided on the lot by a non-prohibited fence material, and the use of corrugated metal does not appear to provide any added security.
2. The property is abutting single-family dwellings to the south and north and the industrial-like fence material will adversely impact the neighborhood look and character.
3. The requested variance will alter the essential characteristics of the district in which the property is located.

Staff Recommendation – Fence Height Special Exception

Staff recommends Denial in BOA-25-10300004 based on the following findings of fact:

1. The fence height special exception being requested is located on a vacant residentially zoned portion of the lot, where no other properties, including vacant ones, in the immediate area exceeded UDC guidelines on fence heights.

2. The requested variance will alter the essential characteristics of the district in which the property is located.