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| Case Number: | BOA-23-10300270 |
| Applicant: | Juan Alonso |
| Owner: | Juan Alonso |
| Council District: | 6 |
| Location: | 5578 Mount McKinley Drive |
| Legal Description: | Lots 39 and 40, Block 4, NCB 17638 |
| Zoning: | “R-6” Residential Single-Family District |
| Case Manager: | Vincent Trevino, Senior Planner |

Request

A request for 1) a 4’ special exception from the maximum 3' fence height, as described in Section 35-514, to allow an 7' privacy fence in the front yard, and 2) a 19' variance from the minimum 20' from the back of the property line, as described in Section 35-516(g), to allow a garage entry to be 1’ from the front setback.

Executive Summary

The subject property is located on Mount McKinley Drive just south of Culebra Road. The property was annexed into the City of San Antonio in 1996. The applicant is requesting a variance for a garage entry to be 1’ from the front setback for the remodeling a structure into a garage.

Additionally, the applicant is requesting a 4’ special exception from the maximum 3’ height to allow a 7’ fence in the front yard. The special exception for the fence will allow for privacy and security for the subject property.

Code Enforcement History

There is no code enforcement history for the subject property.

Permit History

The issuance of a building permit is pending the outcome of the Board of Adjustment.

Zoning History

The property was annexed into the City of San Antonio by Ordinance 85089, dated December 30, 1996, and zoned Temporary “R-1” Single-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned Temporary “R-1” Single-Family Residence District converted to the current “R-6” Residential Single-Family District.

Subject Property Zoning/Land Use

| Existing Zoning | Existing Use |
|--|-------------------------|
| “R-6” Residential Single-Family District | Single-Family Residence |

Surrounding Zoning/Land Use

| Orientation | Existing Zoning District(s) | Existing Use |
|-------------|--|-------------------------|
| North | “R-6” Residential Single-Family District | Single-Family Residence |
| South | “R-6” Residential Single-Family District | Single-Family Residence |
| East | “R-6” Residential Single-Family District | Single-Family Residence |
| West | “R-6” Residential Single-Family District | Single-Family Residence |

Comprehensive Plan Consistency/Neighborhood Association

The subject property is under the Highway 151 and Loop 1604 Area Regional Center Plan and is designated as “Low Density Residential” in the future land use component of the plan. The subject property is in the Mountain View Acres Neighborhood Association, and they were notified of the request.

Street Classification

Mount McKinley Street is classified as a Local Street.

Criteria for Review for Garage Entry Front Setback.

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 restricted setbacks to provide spacing between property line and the garage opening. The applicant is requesting a variance to the front setback to allow a garage to be 1’ from the front setback. Staff finds this distance is not suitable, as it imposes on the public interest of the public street by being too close to the front setback.

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

There are no special conditions on the subject property that warrant the need for the garage to have a 1’ from the front setback. An unnecessary hardship is not present in this situation.

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. In this case, the intention is for sufficient spacing between garage and property line. The garage will be 1’ from the front setback, which does not observe the spirit of the ordinance as it will be too close to the property line.

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.*

If granted, the garage will be 1’ from the front setback, which is likely to alter the essential character of the district. There are no other garages in the immediate area. For these reasons, the granting of the variance will alter the essential character of the district, as setback restrictions are enforced for uniformity within a community and consistent development.

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 found no unique circumstances on the subject property to warrant the need for a reduced side setback.

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 proposed fence being requested is a fence that exceeds the maximum height requirement. If granted, staff finds the request would not be in harmony with the spirit and purpose of the ordinance.

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

In this case, these criteria are represented by fence height to protect residential property owners while still promoting a sense of community. Staff did not observe any significant topographical changes on the subject property or adjacent property. The fence exceeds the maximum allowance, which still does not serve the public welfare and convenience.

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

The proposed 7' fence in the front yard will substantially injure neighboring conforming properties, as no other fences in the immediate seemed to exceed the height requirement.

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 appears to alter the essential character of the district. The fence exceeds the maximum 3' height requirement. The 7' fence height will alter the essential character 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

The current zoning allows for the use of a single-family dwelling. The requested special exceptions will likely weaken the general purpose of the district.

Alternative to Applicant's Requests

The alternative to the applicant's request is to conform to the Garage Front Entry Setback Standards of the UDC Section 35-516(g), and fence height standards in UDC Section 35-514.

Staff Recommendation – Garage Entry Front Setback.

Staff recommends Denial in BOA-23-10300270 based on the following findings of fact:

1. The variance request will alter the essential character of the district.

Staff Recommendation-Fence Height Special Exception.

Staff recommends Denial in BOA-23-10300270 based on the following findings of fact:

1. The proposed 7' fence will result in inconsistent development patterns, as no other fences exceeding the height requirements were seen in the immediate area.