City of San Antonio

Agenda Memorandum

Agenda Date: April 22, 2024

In Control: Board of Adjustment Meeting

DEPARTMENT: Development Services Department

DEPARTMENT HEAD: Michael Shannon

CASE NUMBER: BOA-24-10300049

APPLICANT: Veronica Villegas

OWNER: Veronica Villegas

COUNCIL DISTRICT IMPACTED: District 2

LOCATION: 307 Overlook Road

LEGAL DESCRIPTION: South 75 feet of North 125 feet of East 200.69 of Lot A-21, NCB 13806 (BCAD 535691)

ZONING: "R-6 AHOD" Residential Single-Family Airport Hazard Overlay District

CASE MANAGER: Melanie Clark, Planner

A request for

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

2) A 5' variance from the minimum 15' clear vision to allow a 10' driveway clear vision. Section 35-514 (a)(2)

Executive Summary

The subject property is located east of Interstate 35 and north of Randolph Boulevard, along Overlook Road. The applicant, being the property owner, is requesting a special exception to allow a corrugated metal fence variance for the property. The applicant was cited by Code Enforcement on March 7, 2024, for building a fence on the property without obtaining a permit. The fence height for the side and rear of the property were approved due neighboring properties use of Urban Farm, however as the fence material of corrugated metal in not permitted the fence

height was included. The investigation and permits are pending the outcome of BOA decision. Additionally, during site visit, Staff identified a predominately open fence within the clear vision which requires a 5' variance to allow a 10' driveway clear vision for the front property line.

Code Enforcement History
INV-PBP-24-3100001072 - PMT-Building without a Permit
INV-ZRD-24-3170000681 - Zoning UCD Investigation

Permit History
RES-FEN-APP24-31800325 - Residential Fence Permit

Zoning History
The subject property was annexed into the City of San Antonio by Ordinance 32674, dated September 30, 1964, and zoned Temporary "A" Single-Family Residence District. The property was rezoned by Ordinance 64952 dated April 30, 1987, from Temporary "A" Single-Family Residence District to "R-1" Single-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned "R-1" Single-Family Residence District converted to the current "R-6" Residential Single-Family District.

Subject Property Zoning/Land Use
Existing Zoning
"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District
Existing Use
Single-Family Residential

Surrounding Property Zoning/ Land Use
North
Existing Zoning
"R-6 S AHOD" Residential Single-Family Airport Hazard Overlay District with Special Use Authorization Urban Farm
Existing Use
Urban Farm

South
Existing Zoning
"R-5 AHOD" Residential Single-Family Airport Hazard Overlay District
Existing Use
Single-Family Residential

East
Existing Zoning
"R-6 AHOD" Residential Single-Family Airport Hazard Overlay District
Existing Use
Single-Family Residential

West
Existing Zoning
"R-6 S AHOD" Residential Single-Family Airport Hazard Overlay District with Special Use Authorization Urban Farm
Existing Use
Urban Farm

Comprehensive Plan Consistency/Neighborhood Association
The subject property is in the NE I-35 and Loop 410 Area Regional Center Plan and is designated as "Low Density Residential" 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
Overlook Road is classified as a local road.

Criteria for Review – Corrugated Metal fence and Driveway Clear Vision

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 the required materials for constructing a fence. 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 public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is defined as a reduced driveway clear vision. The requested reduced driveway clear vision is not contrary to the public interest as the majority of the clear vision remains.

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 as defined in the Unified Development Code Section 35-514(a)(6). While the fence height surrounding the property is permitted it must be constructed with permitted materials.

Staff has found special conditions on the property as it is located on the established area fence line and would reduce the front yard.

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 fence does not appear to observe the spirit of the ordinance, as it is constructed from prohibited fencing materials.

The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. The reduced driveway clear vision appears to observe the spirit of the ordinance as it leaves sufficient room to safely back into a local residential street.

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 as defined in the Unified Development Code Section 35-514(a)(6). Upon visiting the site, staff found no fences constructed of corrugated metal in the immediate surrounding area.

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 location of the front yard fence is located on the established location 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, as there are approved fence materials for constructing a fence outlined in the Unified Development Code Section 35-514(a)(6). There are fences constructed within the Unified Development Code's guidelines in the immediate surrounding area.

Staff finds the plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, as the location of neighboring properties and most of the clear vision remaining.

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 material regulations of the UDC Section 35-514.

Staff Recommendation – Corrugated Metal Fence

Staff recommends Denial in BOA-24-10300049 based on the following findings of fact:

1. The requested variance is contrary to the public interest as it will introduce a prohibited fencing material to the area, and
2. The rear and side fence are not constructed of approved fence materials.

Staff Recommendation –Driveway Clear Vision

Staff recommends Approval in BOA-24-10300049 based on the following findings of fact:

1. The established clear vision of the area is at the current fence location, and
2. It is not contrary to the public interest as 10’ of driveway clear vision remain.