

Case Number:	BOA-23-10300308
Applicant:	Jeffrey Paez
Owner:	Jeffrey Paez
Council District:	6
Location:	7434 Fieldgate Drive
Legal Description:	Lot 27, Block 56, NCB 15340
Zoning:	“R-6 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District
Case Manager:	Bronte Frere, Planner

Request

A request for 1) a 3' special exception from the maximum 3' fence height, as described in Section 35-514, to allow a 6' combined fence in the front yard, and 2) a 5' variance from the minimum 15' driveway clear vision, as described in Section 35-514(a)(2), to allow a 10' driveway clear vision.

Executive Summary

The subject property is located on Fieldgate Drive, east of Loop 410 West and south of Texas Highway 151, close to where the two highways intersect. The property owner is requesting a 3' fence special exception to allow a 6' combined fence in the front yard prior to construction. Upon site visits, staff found no other 6' combined fences were observed in the front yards of other properties, and an additional variance requirement for a 5' variance from the minimum 15' variance for clear vision for the property driveway was found.

Code Enforcement History

There is no code history for the subject property.

Permit History

Fence Permit will depend on outcome of this Board of Adjustment case.

Zoning History

The subject property was annexed into the City of San Antonio by Ordinance 41422, dated December 25, 1972, 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 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
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North	“R-6 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence
South	“R-6 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence
East	“R-6 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence
West	“R-6 MLOD-2 MLR-1 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is located within the West/Southwest Sector Plan and is designated “General Urban Tier” in the Future Land Use component of the plan. The property is not within the boundaries of a Neighborhood Association.

Street Classification

Fieldgate Drive is classified as a local road.

Criteria for Review – Clear Vision 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 minimum clear vision requirements to allow for the safety of oncoming vehicular traffic. Staff finds the reduced setback for the driveway allows for adequate sight for oncoming vehicles.

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

Staff found a special condition existing on the property as a literal enforcement of the ordinance does not leave room to build a fence along the property line and have adequate room for vehicle storage on the property’s driveway.

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 intent of the 15’ minimum driveway clear vision requirement is to ensure property distance between the residential property line and commercial development.

The reduced clear vision requirement for the driveway will observe the spirit of the ordinance and still provides adequate sight for oncoming vehicles.

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 reduced clear vision for the driveway will not substantially injure the appropriate use of the adjacent conforming property as it will leave sufficient room from the property while not altering the essential character of the district.

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 due to unique circumstances existing on the property. The development provides limited options to rearrange the development and meet the minimum clear vision requirements.

Criteria for Review – Fence Height Special Exception

According to Section 35-482(h) of the UDC, 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 a 6' combined fence 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 request exceeds the maximum height requirements for a combined fence in the front yard.

- 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 combined fence does not appear to serve the public welfare and convenience, as there were no fences similar to the proposed design in the immediate surrounding area.

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

The fence variance 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.

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 property line 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.

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 goes against the established Unified Development Code fence standards.

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 – Fence Height Special Exemption

Staff recommends Denial in BOA-23-10300308 based on the following findings of fact:

1. The proposed development does not appear to provide significant differences in use if deviated from the original Unified Development Code combined fence standards; and
2. The proposed development will alter the essential character of the district.

Staff Recommendation – Clear Vision Setback Variance

Staff recommends **Approval** in **BOA-23-10300308** based on the following findings of fact:

1. The proposed variance to the clear vision requirements will not alter the essential character of the district; and
2. The enforcement of the 15' clear vision requirement would impose unnecessary hardship upon the property owner, as the construction of a fence at the property line in the front yard leaves minimal options for rearranging the proposed development.