City of San Antonio

Agenda Memorandum

Agenda Date: June 3, 2024

In Control: Board of Adjustment Meeting

DEPARTMENT: Development Services Department

DEPARTMENT HEAD: Michael Shannon

CASE NUMBER: BOA-24-10300082

APPLICANT: Lorraine Negrete

OWNER: Lorraine Negrete

COUNCIL DISTRICT IMPACTED: District 2

LOCATION: 859 Canton Street

LEGAL DESCRIPTION: Lot 15, Block 32, NCB 6453

ZONING: "R-4 EP-1 MLOD-3 MLR-2" Residential Single-Family Facility Parking/Traffic Control Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 District

CASE MANAGER: Colton Unden, Planner

A request for

1) A 3' special exception from the maximum 3' fence height to allow a 6' privacy fence in the front yard.
Section 35-514

2) A 15' variance from the minimum 25' corner clear vision requirement to allow a 10' corner clear vision.
Section 35-514(a)(2)

Executive Summary

The subject property is located along Canton Street, south of East Houston Street, located within the notification boundaries of Jefferson Heights and Harvard Place Eastlawn Neighborhood Associations. The applicant constructed a 6' privacy fence in the front yard along North Mel

Waiters Way without a permit and was given notice by code enforcement of the violation in April 2024. Upon site visits staff noticed the fence was additionally not in compliance with corner clear vision rules for fences and the variance was added to the request after consultation with the applicant.

Code Enforcement History
INV-STE-24-2640012366 – April 22, 2024 - Structure Exterior (Fence) – Pending Resolution

Permit History
The applicant has not yet applied for the building permit.

Zoning History
The subject property was located within the original 36 square miles of the City of San Antonio and originally zoned "B" Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned "B" Residence District converted to the current "R-4" Residential Single-Family District.

Subject Property Zoning/Land Use
Existing Zoning
"R-4 EP-1 MLOD-3 MLR-2" Residential Single-Family Facility Parking/Traffic Control Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 District
Existing Use
Single-Family Dwelling

Surrounding Property Zoning/ Land Use
North
Existing Zoning
"C-2 EP-1 MLOD-3 MLR-2" Commercial Facility Parking/Traffic Control Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 District
Existing Use
Convenience Store

South
Existing Zoning
"R-4 EP-1 MLOD-3 MLR-2" Residential Single-Family Facility Parking/Traffic Control Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 District
Existing Use
Single-Family Dwelling

East
Existing Zoning
"MF-33 EP-1 MLOD-3 MLR-2" Multi-Family Facility Parking/Traffic Control Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 District
Existing Use
Multi-Family Dwelling

West
Existing Zoning
"R-4 EP-1 MLOD-3 MLR-2" Residential Single-Family Facility Parking/Traffic Control Martindale Army Airfield Military Lighting Overlay Military Lighting Region 2 District
Existing Use
Single-Family Dwelling

Comprehensive Plan Consistency/Neighborhood Association
The subject property is in the Arena District/ Eastside Community Plan and is designated as "Medium Density Residential" in the future land use component of the plan. The subject property is located within the boundaries of the Jefferson Heights Neighborhood Association and the Harvard Place Eastlawn Neighborhood Association, and they have been notified of the request.

Street Classification
Canton Street is classified as a Local Road.

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' privacy 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 privacy 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 privacy fence does not appear to serve the public welfare and convenience, as there were no fences like 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.

Criteria for Review – Corner 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 applicant is requesting a variance to the Clear Vision Standards to allow a privacy fence to be 10' from the corner of Mel Waiters Way and Canton Street. To observe the safety of vehicular traffic for those traveling across the intersection, the variance to the Clear Vision Standards appears to be contrary to the public interest.

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 the applicant will just need to relocate a portion of the fence.

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

   The variance to the clear vision requirements does not appear to observe the spirit of the ordinance since the fence appears to allow for alterations to meet the 25' Clear Vision Field.

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 variance request will injure the appropriate use of adjacent conforming properties. Upon site visits, staff found no other fences or obstructions in the immediate vicinity that were encroaching into the corner 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.

Alternative to Applicant's Request

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

Staff Recommendation – Fence Height Special Exemption

Staff recommends Denial in BOA-24-10300082 based on the following findings of fact:

1. The special exemption will alter the essential character of the district.
2. No similar front yard fence heights were seen in the immediate vicinity.

Staff Recommendation – Corner Clear Vision Variance

Staff recommends Denial in BOA-24-10300082 based on the following findings of fact:

1. The fence obstructs the vision of oncoming traffic at the Mel Waiters Way and Canton Street intersection.
2. The variance will alter the essential character of the district as no other fences encroached into the clear vision in the immediate vicinity.