

Case Number:	BOA-22-10300124
Applicant:	Juanita Romero
Owner:	Juanita Del Fierro
Council District:	1
Location:	1427 West Lullwood Avenue
Legal Description:	Lot 18, Block 79, NCB 2794
Zoning:	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District
Case Manager:	Vincent Trevino, Senior Planner

Request

A request for 1). a 2' 9" special exception from the 5' maximum height requirement, as described in Section 35-514 to allow a 7' 9" wrought iron fence along the front property line. 2). a 1' 9" special exception from the 6' maximum height requirement, as described in Section 35-514 to allow a 7' 9" wrought iron fence along the side property line. 3). a 9' 10½" from the 15' minimum clear vision requirement, as described in Section 35-514(2)(b) to allow a wrought iron fence to be 5' 1 ½" from the curb.

Executive Summary

The subject property is located at 1427 West Lullwood Avenue. There is currently a code investigation for a fence on the property installed with no permit. Upon the site visit conducted by staff, it was observed that there was currently a fence exceeding the height along the front and side of the property. Upon site visit staff observed that the fence is also encroaching the minimum 15' clear vision from the curb.

Code Enforcement History

INV-PBP-22-3100000375 was opened on 02/02/2022.

Permit History

There are no relevant permits pulled for the subject property. A fence permit will need to be obtained and is pending the outcome of the BOA Hearing.

Zoning History

The subject property was located within the original 36 square miles of the City of San Antonio and 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	Existing Use
"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	"C-1 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
South	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
East	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence
West	"R-4 AHOD" Residential Single-Family Airport Hazard Overlay District	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Near Northwest Plan is currently designated Urban Low Density Residential in the future land use component of the plan. The subject property is located within the Keystone Neighborhood Association, and they were notified of the case.

Street Classification

West Lullwood Avenue is classified as a local street.

Criteria for Review – Fence Height Special Exception

According to Section 35-482(h) of the UDC, in order for a special exception 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 being requested in a 7' 9" predominately open fence along the front and side property lines. If granted, staff finds the request would be in not 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 heights to protect residential property owners' security while still promoting a sense of community. A 7' 9" tall fence along the front and side portion of the yard will pose any adverse effects to the public welfare. The 7' 9" fence would be out of character for the surrounding area.

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

The fence will substantially injure the neighboring properties on front and side yard due to the height of the fence.

- 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 for front and side yard will alter the essential character of the district. The request for additional fence height is due to security.

- 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 permits the current use of residential uses. The requested special exception will weaken the general purpose of the district.

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. The applicant is requesting a variance to the clear vision field. The fence is predominately open, and they have 5' 1 1/2" of clear vision and the variance does appear 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 ordinance would result in the applicant having to move the gate 9' 10 1/2" inward to meet the clear vision requirement which would reduce the size of 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. A variance request for 4' 5" to the clear vision requirement of the 15' minimum does not observe the spirit of the ordinance.

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 request for a 5' 1 1/2" variance to the clear vision field will injure adjacent properties or alter the essential character of the district. The fence line is not consistent with others in the immediate 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 due to the fact that there are no unique circumstances existing on the property or general conditions in the district.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Fence Height Requirements of the UDC Section 35-514.

Staff Recommendation –Front and Side Fence Height Special Exception

Staff recommends Denial in BOA-22-10300124 based on the following findings of fact:

1. There appear to be no other fences of this type in the area.

Staff Recommendation – Clear Vision Variance

Staff recommends Denial in BOA-22-10300124 based on the following findings of fact:

1. The predominately open fence and gate is 5' 1 1/2" from the curb; and
2. The fence does not meet the 15' clear vision requirement.