

Case Number:	BOA-22-10300152
Applicant:	Dorfirio Mares
Owner:	Dorfirio Mares
Council District:	1
Location:	2103 West Wildwood
Legal Description:	Lot 19, 20, 21, & 22, Block 3, NCB 8422
Zoning:	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District
Case Manager:	Joseph Leos, Planner

### **Request**

A request for 1) a 3’8” variance from the 5’ front yard fence height as described in Section 35-514, to allow an 8’8” fence in the front yard, 2) a 2’ special exception from the 6’ side fence height as described in Section 35-514, to allow an 8’ fence in the side yard, 3) a 16’ variance from the 25’ minimum clear vision requirement as described in Section 35-514(a)(2), to allow a fence to be 9’ from the corner curb, 4) a 9’ variance from the 15’ minimum clear vision requirement as described in Section 35-514(a)(2), to allow a fence to be 6’ from the front driveway, 5) a 9’ variance from the 15’ minimum clear vision requirements as described in Section 35-514(a)(2), to allow a fence to be 6’ from the side driveway, 6) a 9’ variance from the 15’ minimum clear vision requirements as described in Section 35-514(a)(2), to allow a fence to be 6’ from the western neighbor’s driveway, and 7) a variance from the fence materials as described in Section 35-514(a)(6), to allow for a corrugated metal fence along the northern and western property line.

### **Executive Summary**

The subject property is located along West Wildwood Street, near the intersection of IH-10 West and West Avenue and in a predominantly single-family neighborhood. The applicant has a fence built without a permit the went over the permitted height. Upon staff site visit, we observed clear vision and fence material discrepancies with the UCD. The front yard fence height is almost all 8’, except for the support poles which go as high as 8’-8”. While other front yard fences were observed in the area, none appeared higher than 5 feet.

### **Code Enforcement History**

January 2022- Overgrown Yard Investigation- Trash

January 2022- Vehicle Investigation- Junk Vehicle

July 2022- Building Without A Permit (Fence) Pending Resolution

### **Permit History**

July 2022- Re-Roof Permit

The issuance of a building permit for the fence is pending the outcome from the Board of Adjustments.

### **Zoning History**

The subject property was annexed into the City of San Antonio by Ordinance 1845, dated May 5, 1940, 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	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	“R-4 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 Community Plan and is designated “Urban Low Density Residential” in the future land use component of the plan. The subject property is located within the boundary of the Los Angeles Heights Neighborhood Association and they have been notified of the request.

### **Street Classification**

West Wildwood Drive is classified as a Local Road.

### **Criteria for Review – Fence Height, Clear Vision and Fence Material 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. Staff finds the clear vision intrusion caused by the front yard fence height and fence materials is 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 reducing front yard fence height to 5 feet and pushing back location of the fence and use permitted fencing materials on the property.

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 clear vision and exceeding side yard fence height does is not within 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.*

If granted, the clear vision encroachment, front fence height and corrugated metal will alter 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 is not due to any unique circumstances existing on the property and created by the owner of the property.

#### **Criteria for Review – Special Exception for Fence Height Modifications**

According to Section 35-482(h) of the UDC, in order for a special exception to be granted, the Board of Adjustment must find that the request meets each of the five following conditions:

- 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 additional fence height in the side yard was observed upon the site visit and, 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 heights to protect residential property owners while still promoting a sense of community. An 8' tall fence in the side yard does not appear to serve the public welfare and convenience

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

The fence height special exception is being requested for the subject property. With no unique features existing on the property and no other 8' fences observed in the surrounding neighborhood, the neighboring property may potentially be adversely affected.

- 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 height for the side at alters the essential character of the district as there were no fences of similar heights in the area.

- 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 does not permit the current use and is likely to weaken the general purpose of the district.

**Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the minimum lot size and setback requirements per Sec 35-514, Sec 35-514(a)(2), and Sec 35-514(a)(6) of the Unified Developed Code.

**Staff Recommendation – Fence Height, Clear Vision and Fence Material Variance**

Staff recommends Denial in BOA-21-10300152 based on the following findings of fact:

1. The clear vision would be contrary to public interest; and
2. No other similar fence height was observed in the area.

**Staff Recommendation – Special Exception for Fence Height Modifications**

Staff recommends Denial in BOA-21-10300152 based on the following findings of fact:

1. The additional fence height will change the essential character of the district; and
2. No other similar fence height was observed in the area.