

Case Number:	BOA-22-10300186
Applicant:	Anita Salazar
Owner:	Salazar Anita F
Council District:	3
Location:	204 Parkview Drive
Legal Description:	Lot 3 and Lot 4, NCB 6918
Zoning:	“R-5 H MPOD RIO-4 AHOD” Residential Single-Family Mission Historic Mission Conception Protection Overlay River Improvement Overlay Airport Hazard Overlay District
Case Manager:	Richard Bautista-Vazquez, Planner

### **Request**

A request for 1) a 4' variance from the minimum 5' rear and side setback requirement, as described in Sec 35-370(b)(1), to allow an accessory structure to be 1' from the side and rear property lines, and 2) a 5' variance from the 15' minimum clear vision requirement, as described in Sec 35-514 (a)(2), to allow a fence to be 10' from the front driveway.

### **Executive Summary**

The subject property is located Parkview Drive and contains a single-family dwelling. The applicants site plan has the proposed structure 1' from the rear and side property lines. Upon staff site visit, staff observed other similar accessory structures in the surrounding area. A Code Enforcement investigation for PMT-Building Without A Permit was created on 07/29/2022. Additionally, staff observed a fence encroaching the clear vision requirement by the 5'. The minimum clear vision requirement is 15' from the driveway.

### **Code Enforcement History**

PMT-Building Without A Permit 07/29/2022

### **Permit History**

There are no permits on file for the property. The permit for the structure is pending the outcome of the Board of Adjustment 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. The property was rezoned by Ordinance 61454, dated September 19, 1985 to “R-5” Single-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property converted to “R-5” Residential Single-Family District.

### **Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“R-5 H MPOD RIO-4 AHOD” Residential Single-Family Mission Historic Mission Conception Protection Overlay River Improvement Overlay Airport Hazard Overlay District	Single-Family Dwelling

### **Surrounding Zoning/Land Use**

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“R-5 H MPOD RIO-4 AHOD” Residential Single-Family Mission Historic Mission Conception Protection Overlay River Improvement Overlay Airport Hazard Overlay District	Single-Family Residence
South	“R-5 H MPOD RIO-4 AHOD” Residential Single-Family Mission Historic Mission Conception Protection Overlay River Improvement Overlay Airport Hazard Overlay District	Single-Family Residence
East	“R-5 H MPOD RIO-4 AHOD” Residential Single-Family Mission Historic Mission Conception Protection Overlay River Improvement Overlay Airport Hazard Overlay District	Single-Family Residence
West	“R-5 H MPOD RIO-4 AHOD” Residential Single-Family Mission Historic Mission Conception Protection Overlay River Improvement Overlay Airport Hazard Overlay District	Single-Family Residence

### **Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Downtown Area Regional Center Plan and is designated “Urban Low Density Residential” in the future land use component of the plan. The subject property is located within the Roosevelt Park Neighborhood Association and were notified of the case.

### **Street Classification**

Parkview Drive is classified as a local road.

### **Criteria for Review – Clear Vision Variance and Rear/Side Setback 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 variance for the clear vision is not contrary to the public interest as there are similar fences in the area with similar clear vision encroachments.**

The structure is contrary to the public interest, there is sufficient space to allow the structure to be 3’ from the side and rear property lines.

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

**To conform to the clear vision standards the applicant would have to demolish and replace the fence to conform. This will cause an unnecessary hardship.**

Staff finds an unnecessary hardship since the lot is too small to allow the development of a structure with the 5' side and rear setback requirement.

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

**The fence is existing, and the spirit of the ordinance is observed and substantial justice is done.**

The structure has been constructed and the current setback is 1' from the rear and side property lines. The spirit of the ordinance will not be observed as there is no reasonable space between the structure and neighboring properties.

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.*

**The fence as is, will not alter the character of the district.**

If the side and rear setback variances is granted, the addition will maintain 1' from the side and rear property line. This distance may likely to 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 that the existing fence maintain a 10' clear vision was a unique circumstance not created by the owner.**

Because of the width of the lot and configuration of the existing residence, maintaining a 3' rear and side setback as staff is recommending is achievable. The request is not merely financial.

### **Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the setback requirements of the UDC Sec 35-370(b)(1) and Clear Vision requirements of Sec 35-514 (a)(2).

### **Staff Recommendation – Rear and Side Setback Variance**

Staff recommends Denial **with an alternate recommendation of 3' rear and side setback** requirement in **BOA-22-10300186** based on the following findings of fact:

1. The accessory structure can adequately be setback 3' from the side and rear property lines;  
and
2. There is possible water runoff to the neighboring properties.

**Staff Recommendation – Clear Vision Variance**

Staff recommends **Approval** in **BOA-22-10300186** based on the following findings of fact:

1. The clear vision of the fence does not alter the character of the district.