

Case Number:	BOA-22-10300200
Applicant:	Alfredo Alvarez
Owner:	Alfredo Alvarez
Council District:	4
Location:	8303 Quihi Street
Legal Description:	Lot 38, Block 17, NCB 12670
Zoning:	“RM-4 MLOD-2 MLR-1 AHOD” Residential Mixed Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District
Case Manager:	Vincent Trevino, Senior Planner

### **Request**

A request for 1) a 7” special exception from the maximum 5’ height to allow a predominantly open fence, as described in Section 35-514, to be 5’-7” on the front yard, 2) a 13’-8” variance from the 25’ minimum clear vision requirement, as described in section 35-514(a)(2)(a), to allow a fence to be 11’-4” from the corner curb, and 3) a 6’-6” variance from the 15’ minimum clear vision requirement, as described in section 35-514(a)(2)(b) to allow a fence to be 8’-6” from the front driveway.

### **Executive Summary**

The subject property is located South of San Antonio at the Intersection of Quihi Street and Owasso and contains a single-family residence. The applicant constructed a 5’ 7” predominately open fence on the front of the property of the existing residence. The maximum fence height permitted for a predominately open fence along the front property line is 5’. Additionally, staff observed that both the new fence along the side and an existing fence located along the front side property line are encroaching into the Clear Vision area. A Residential fence permit approved, however during inspection, the fence was over the 5’ requested on the fence permit.

### **Code Enforcement History**

There are no code violations for this property.

### **Permit History**

RES-FEN-PMT22-31900956

### **Zoning History**

The subject property was annexed into the City of San Antonio by Ordinance 18115, dated September 24, 1952, and zoned “B” Residence District. The property was rezoned by Ordinance 93308, dated January 1, 2001 to “R-2” Two-Family Residence District. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “R-2” Two-Family Residence District converted to the current “RM-4” Residential Mixed District.

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

<b>Existing Zoning</b>	<b>Existing Use</b>
“RM-4 MLOD-2 MLR-1 AHOD” Residential Mixed Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence

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

<b>Orientation</b>	<b>Existing Zoning District(s)</b>	<b>Existing Use</b>
North	“RM-4 MLOD-2 MLR-1 AHOD” Residential Mixed Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence
South	“RM-4 MLOD-2 MLR-1 AHOD” Residential Mixed Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence
East	“RM-4 MLOD-2 MLR-1 AHOD” Residential Mixed Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Single-Family Residence
West	“RM-4 MLOD-2 MLR-1 AHOD” Residential Mixed Lackland Military Lighting Overlay Military Lighting Region 1 Airport Hazard Overlay District	Drainage Easement

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

The subject property is in the West/Southwest Sector Plan and is designated “Suburban Tier” in the future land use component of the plan. The subject property is not located within a Neighborhood Association.

### **Street Classification**

Quihi Street 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. The applicant is requesting a 13’-8” variance from the 25’ minimum clear vision requirement to allow a fence to be 11’-4” from the corner curb, and a 6’-6” variance from the 15’ minimum clear vision requirement to allow a fence to be 8’-6” from the front driveway and these variance requests are not 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 fence having to comply with the 15' clear vision requirement from the front driveway and to comply with the 25' clear vision requirement from the curb which cannot be achieved due to the size and shape of 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. A 13'-8" variance from the 25' minimum clear vision requirement to allow a fence to be 11'-4" from the corner curb, and a 6'-6" variance from the 15' minimum clear vision requirement to allow a fence to be 8'-6" from the front driveway observes the spirit of the ordinance due to the size and shape of the property.**

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 also finds the request for a 13'-8" variance from the 25' minimum clear vision requirement to allow a fence to be 11'-4" from the corner curb, and a 6'-6" variance from the 15' minimum clear vision requirement to allow a fence to be 8'-6" from the front driveway will not alter the 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 due to unique circumstances existing on the property, such as the size and shape of the property.**

#### **Criteria for Review – Fence Height**

**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 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. The fence is located along the front property and is exceeding the maximum height requirement by 7". The fence is predominately open which serves the public welfare and convenience.**

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

**The fence will create enhanced security for the subject property and will substantially injure any neighboring properties.**

- 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 section of front yard fence will not alter the essential character of the district.**

- 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 a single-family home. The requested special exception will not weaken the general purpose of the district.**

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

The alternative to the applicant's request is to conform to the Clear Vision requirements listed under Section 35-514(a)(2), and the Fence Height requirements listed under Section 35-514 of the Unified Development Code.

### **Staff Recommendation – Clear Vision Variance**

Staff recommends **Approval** in **BOA-22-10300200** based on the following findings of fact:

1. The predominately open fence and gate is 11'-4" and 8'-6" from the curb; and
2. The gate is on a rolling track and will not further impede into the clear vision field.
3. Similar fences were observed in the immediate area therefore the request does not appear to alter the essential character of the neighborhood.

### **Staff Recommendation – Fence Height Special Exception**

Staff recommends **Approval** in **BOA-22-10300200** based on the following findings of fact:

1. Stop sign on Quihi Street can help substitute for a reduced clear vision; and
2. Similar fences were observed in the immediate area therefore the request does not appear to alter the essential character of the neighborhood.

