

Case Number:	BOA-22-10300263
Applicant:	Blanca Lara
Owner:	Sergio & Blanca Lara
Council District:	5
Location:	2001 Santiago Street
Legal Description:	Lots 22, 23, and 24, Block 3, NCB 2893
Zoning:	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District
Case Manager:	Joseph Leos, Planner

### **Request**

A request for 1) a 1’-6” variance to minimum required 20’ rear setback, as described in Section 35-310.01, for a structure to be 18’-6” away from rear property line, 2) a 2’-6” special exception from the maximum 3’ front fence height requirement, as described in Section 35-514, to allow a 5’-6” solid screened fence in the front yard, 3) a 19’-9” variance from the 25’ minimum clear vision requirement, as described in Section 35-514(a)(2), to allow a solid screened privacy fence to be 5’-3” from the corner curb, 4) a 4’ variance from the 15’ minimum clear vision requirement, as described in Section 35-514(a)(2), to allow a solid screened privacy fence to be 11’ from the side yard driveway, 5) a 10’ variance from the 15’ minimum clear vision requirement, as described in Section 35-514 (a)(2), to allow a solid screened fence to be 5’ from the front driveway, 6) a 4’-11” variance from the minimum 5’ side setback requirement, as described in Section 35-310.01, to allow a structure to be 1” from the side property line, 7) a variance from the fence materials, as described in Section 35-514(a)(6), to allow corrugated metal along the rear property line, and 8) a variance from the maximum 50% impervious cover requirement, as described in Section 35-515(d), to allow the front yard to exceed the 50% impervious cover.

### **Executive Summary**

The subject property is located along Santiago Street southwest of the intersection of South Zarzamora Street and Guadalupe Street. The applicant submitted plans to obtain a building permit; however, was stopped due to a variance being needed for the rear setback. Upon site visits, staff observed additional variance requests needed for the front and side setback, clear vision, and impervious cover. Additionally, the applicant would need to obtain a special exception for a front fence height.

### **Code Enforcement History**

ROW- Brush Debris- October 2021  
Overgrown Yard- Trash- October 2021  
Overgrown Yard- Trash- August 2021  
PMT- Building Without a Permit- May 2021

### **Permit History**

The issuance of a building permit is pending the outcome of the Board of Adjustment  
Minor Building Repair- July 2021

### **Zoning History**

The subject property was located within the original 36 square miles of the City of San Antonio and zoned “C” Apartment District. The property rezoned under Ordinance 75720, dated May 7, 1992, from “C” Apartment District to “R-7” Small Lot Home District. Under the 2001 Unified

Development Code, established by Ordinance 93881, dated May 03, 2001, the property zoned “R-7” Small Lot Home District converted to the current “R-4” Residential Single-Family District

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
South	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
East	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence
West	“R-4 MLOD-2 MLR-2 AHOD” Residential Single-Family Lackland Military Lighting Overlay Military Lighting Region 2 Airport Hazard Overlay District	Single-Family Residence

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is in the Guadalupe Westside Plan and is designated “Low Density Residential” in the future land use component of the plan. The subject property is located within the boundary of the El Charro Neighborhood Association and they have been notified of the request.

**Street Classification**

Santiago Street and South Picoso Street are classified as a local road.

**Criteria for Review – Rear, Side, Setback, Impervious Cover, Clear Vision, and Corrugated Metal Variances**

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 side setback. The proposed distance to the side property

line is 1", which does not provide adequate spacing between structures and neighboring properties and is contrary to the public interest. Additionally, the applicant is requesting a variance to exceed the 50% impervious cover requirement, decrease clear vision distance from the corner curb, front and side driveways, and deviate from the permitted fence materials. The impervious coverage limitation maintains the management of storm water by lessening runoff. Regulations are provided to prevent front yards from being covered by impervious surfaces, which can diminish the character of the community. Additionally, the current clear vision distances inflict on the safety of vehicular traffic. Lastly, restrictions in fence materials are put into place for safety measures. All which are contrary to the public interest.

**Staff finds that a 1'-6" variance to allow a structure to be 18'-6" away from rear property line is a suitable amount of space. There is a reasonable amount of space between the rear property line and neighbor. Additionally, it is in the rear yard and shielded from the public eye.**

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 altering the proposed and existing to abide by the 5' side setback requirements. This would not result in an unnecessary hardship, as the proposed addition and existing structure can be altered to meet the setback requirement. The impervious cover variance request would not result in an unnecessary hardship as the applicant would only need to alter the surfaces that are impermeable. As for the clear vision distance, the applicant would need to alter the fence to abide by the required distances of 15' and 25' from the driveway and corner curbs. Lastly, the additional variance request to allow corrugated metal would not result in the unnecessary hardship, as the applicant could substitute the fence materials for those permitted. All which would not result in an unnecessary hardship.

**If granted, staff finds that an unnecessary hardship will be presented by the applicant not being able to build a sizable structure if the rear setback requirement was enforced.**

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 requested variances would not observe the spirit of the ordinance, as these regulations are put in place to provide uniformity, minimum standards for design, and for safety protocols.

**The proposed distance of 18'-6" from the rear property will observe the spirit of the ordinance, as this will allow for a satisfactory amount of spacing between 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.*

If granted, the existing and proposed structures will be situated at the proposed distances, which is likely to alter the essential character of the district as the surrounding properties are abiding by the UDC standards. The proposed variances will alter injure the appropriate use of adjacent conforming properties.

**The proposed variance request to allow a structure to be 18'-6" from the rear property line will not injure the appropriate use of adjacent properties or alter the essential character of the district, as smaller lots with similar setbacks were found 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 not due to unique circumstances existing on the property. The circumstances do not appear to be merely financial.

**Staff finds that unique circumstances exist on the property that would prevent any extension of the structure. The rear yard does not have enough room for an expansion and staying within the 20 foot setback.**

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

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. Upon the site visit, a 5'-6' solid screened privacy fence was observed in the front yard that deviates from the 3' maximum height requirement. If granted, staff does not find the request to be harmonious 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. Staff did not observe any significant topographical changes on the subject property or adjacent properties. The fence at its current height does not appear to serve the public welfare and convenience.

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

Solid screened fences were not observed in the surrounding neighborhood; therefore, the additional height could adversely injure 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 fence height in the front yard will alter the essential character of the district, as there is no established precedence for solid screened fences in the immediate 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 allows for the use of a single-family dwelling. The requested special exception will likely weaken the general purpose of the district.

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

The alternative to the applicant's request is to conform to the setback requirements listed in section 35-310.01, Fence Height, Clear Vision and Fence Material Regulations listed under Section 35-514, and Lot Layout, Height, and Density/ Intensity Standard of Section 35-515(d).

#### **Staff Recommendation – –Side Setback, Impervious Cover, Clear Vision, and Corrugated Metal Variances**

Staff recommends Denial in BOA-22-10300263 based on the following findings of fact:

1. The proposed and existing distances for the rear, side, and front setbacks do not provide adequate spacing between structures and neighboring properties; and
2. The impervious coverage limitation maintains the management of storm water by lessening runoff; and
3. Accessory structures shall only be permitted within the side or rear yards; and
4. The current clear vision distances inflict on the safety of vehicular traffic; and
5. Restrictions in fence materials are put into place for safety measures and uniformity within a residential district.

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

Staff recommends Denial in BOA-22-10300263 based on the following findings of fact:

1. Solid screened fences were not observed in the surrounding neighborhood; therefore, the additional height for the front yard fence could adversely injure neighboring properties; and
2. There is no established precedence for solid screened fences in the immediate area.

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

Staff recommends **Approval** for a **1'-6" variance to minimum required 20' rear setback for a structure to be 18'-6" away from rear property line**, in **BOA-22-10300263** based on the following findings of fact:

1. An 18'-6" rear setback is in the rear yard, which is not contrary to the public interest as it is shielded from the public eye; and
2. Smaller lots with similar setbacks were observed in the immediate area.