

Case Number:	BOA-23-10300020
Applicant:	Ashley Williams
Owner:	Ashley Williams
Council District:	1
Location:	1016 West Lullwood Avenue
Legal Description:	Lot 30 and Lot 31, Block 8, NCB 3109
Zoning:	“R-6 NCD-5 AHOD” Residential Single-Family Beacon Hill Neighborhood Conservation Airport Hazard Overlay District
Case Manager:	Mark Chavez, Planner

Request

A request for 1) a variance from the Fencing Design Standards, as described in the Beacon Hill Neighborhood Conservation District, to allow fencing or gate structures across the driveway in the front yard and 2) a 1’-6” variance from the minimum 15’ clear vision requirement, as described in Sec 35-514(a)(2), to allow a fence to be 13’-6” from the front driveway.

Executive Summary

The subject property is located along West Lullwood Avenue south of West Hildebrand Avenue. The applicant purchased a home not knowing that some renovations the seller/contractor had done were in violation of the Beacon Hill Neighborhood Conservation District. The issue at hand was the violation of the Beacon Hill Neighborhood Conservation District to allow fencing or gate structures across the driveway in the front yard triggering a Zoning UDC Investigation (INV-ZPS-22-3160001484). Upon site visits, staff observed the fence over the driveway to also be in violation of the 15’ clear vision requirement.

Code Enforcement History

PMT- Building Without a Permit- Created on 05/12/2022
Zoning UDC Investigation- INV-ZPS-22-3160001484

Permit History

The issuance of a building permit is pending the outcome of the Board of Adjustment.

Zoning History

The subject property was part of the Original 36 square miles of the City of San Antonio and originally zoned “B” Residence District. The subject property was then rezoned to “R-1” Single-Family Residence District by Ordinance 86704, dated September 25, 1997. Under the 2001 Unified Development Code, established by Ordinance 93881, dated May 03, 2001, the property converted to the current “R-6” Residential Single-Family District.

Subject Property Zoning/Land Use

Existing Zoning	Existing Use
“R-6 NCD-5 AHOD” Residential Single-Family Beacon Hill Neighborhood Conservation Airport Hazard Overlay District	Single-Family Residence

Surrounding Zoning/Land Use

Orientation	Existing Zoning District(s)	Existing Use
North	“R-6 NCD-5 AHOD” Residential Single-Family Beacon Hill Neighborhood Conservation Airport Hazard Overlay District	Single-Family Residence
South	“R-6 NCD-5 AHOD” Residential Single-Family Beacon Hill Neighborhood Conservation Airport Hazard Overlay District	Single-Family Residence
East	“R-6 NCD-5 AHOD” Residential Single-Family Beacon Hill Neighborhood Conservation Airport Hazard Overlay District	Single-Family Residence
West	“R-6 NCD-5 AHOD” Residential Single-Family Beacon Hill Neighborhood Conservation Airport Hazard Overlay District	Single-Family Residence

Comprehensive Plan Consistency/Neighborhood Association

The subject property is in the Midtown Community Plan and is designated “Low Density Residential” in the future land use of the component of the plan. The subject property is located within the boundaries of the Beacon Hill Neighborhood Association, and they have been notified of the request.

Street Classification

West Lullwood Avenue is classified as a local road.

Criteria for Review – Fencing Variance, Clear Vision Requirement 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. In this case, the public interest is represented by restricted design standards set forth by the Beacon Hill Neighborhood Conservation District. The applicant is requesting a variance from the Beacon Hill Neighborhood Conservation District Fencing Design Standards to permit fencing or gate structures across the driveway in the front yard which would be contrary to public interest.

The public interest is defined as the general health, safety, and welfare of the public. In this case, applicant is requesting a 1’-6” variance from the minimum 15’ clear vision requirement to allow a fence to be 13’-6” from the front driveway which would leave enough room for clear vision.

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

There are no special conditions on the subject property that warrant an exception from the NCD requirement.

A literal enforcement of the ordinance would result in unnecessarily pushing the entire fence closer to the home to meet the clear vision standard.

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. In this case, the intention is for uniformity within the Beacon Hill neighborhood. The fencing across the gate does not observe the spirit of the conservation district, as fencing across the driveway contradicts the intent and spirit of the Neighborhood Conservation District.

The spirit of the ordinance is defined as the intent of the code, rather than the exact letter of the law. The reduced clear vision would leave over 13' of clear vision and would meet 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 structure will remain across the driveway, which is likely to alter the essential character of the district.

If granted, the clear vision would leave enough room to safely pull out and would not 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. The owner at the time should have known of the Neighborhood Conservation District standards.

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. The location of the fence would require moving to not be in line with the clear vision standards.

Alternative to Applicant's Request

The alternative to the applicant's request is to conform to the Beacon Hill Neighborhood Conservation District standards and the Clear Vision standards in Sec 35-514(a)(2).

Staff Recommendation – Beacon Hill Neighborhood Conservation District

Staff recommends Denial in BOA-23-10300020 based on the following findings of fact:

1. The Neighborhood Conservation District standards were created to project uniformity in the neighborhood.

Staff Recommendation – Clear Vision

Staff recommends **Approval** in **BOA-23-10300020** based on the following findings of fact:

1. Enough room exists to safely drive out of driveway.
2. Will not alter the essential character of the neighborhood.