

Case Number:	BOA-23-10300089
Applicant:	Stephen Kennedy
Owner:	Stephen Kennedy
Council District:	1
Location:	1123 Pasadena Street
Legal Description:	Lot 19, Block 7, NCB 7189
Zoning:	“R-4 AHOD” Residential Single-Family Airport Hazard Overlay District
Case Manager:	Vincent Trevino, Senior Planner

### **Request**

A request for 1) a 1'-8" special exception from the maximum 5' fence height, as described in Section 35-514, to allow a 6'-8" predominantly open fence along the front property line, 2) a 3'-8" special exception from the maximum 3' fence height, as described in Section 35-514, to allow a 6'-8" privacy fence along the front yard except the front property line, and 3) a 5'-10" variance from the minimum 15' clear vision, as described in Section 35-514 (a)(2), to allow a 9'-2" clear vision driveway.

### **Executive Summary**

The subject property is located along Pasadena Street, located between Capitol Avenue and Michigan Avenue. The applicant is requesting a special exception to an existing 6'-8" predominately open fence along the front property line and along the front yard except the front property line. There was a building without a permit issued by code compliance for the fence being constructed prior to the issuance of a permit, however it was closed out prior to an application for a fence permit and an application for a variance. Additionally, the applicant is requesting a 5'-10" variance to allow the existing fence to have a clear vision of 9'-2" from driveway.

### **Code Enforcement History**

INV-PBH-INV21-2980000684 – Boarding Home May 2021 – No Violation/Closed Out

### **Permit History**

Re-Roof Permit (REP-ROF-PMT22-35200975) - April 2023

### **Zoning History**

The property was annexed into the City of San Antonio by Ordinance 1845, dated May 5, 1940 and 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 Greater Dellview Area Community Plan and is designated as “Low Density Residential” in the future land use component of the plan. The subject property is located within the boundary of the Central Neighborhood Association, and they have been notified of the request.

### **Street Classification**

Pasadena Street is classified as a Local Street.

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

According to Section 35-482(h) of the UDC, in order for a variance to be granted, the applicant must demonstrate all of the following:

#### *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 fence height being requested is predominantly open, located along the front of the property line and along the front yard except the front property line. The fence will not be in the harmony of the spirit as there are no other fences of this type in the area.

#### *B. The public welfare and convenience will be substantially served.*

In this case, these criteria are represented by fence heights to protect property owners while still promoting a sense of community. The proposed fence be requested will be located along the front property line and along the front yard except the front property line and is exceeding the maximum height requirement by 1’-8” and 3’-8”. The fence is predominantly open and does not serve the public welfare and convenience.

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

The special exception will substantially injure the neighboring property as it creates an out of character fence abutting their property and creates a safety issue.

#### *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 located along the front of the property line and along the front yard except the front property line of the subject property appear to alter the character of the district as there are not other fences of this type 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 purpose of the fencing standards is to protect the health, safety, and general welfare of the public. The special exception request is to allow a 6'-8" tall fence to add security for the owner. However, the requested special exception will weaken the general purpose of the district due to no other fences of this type being in the area.

### **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 applicant is requesting a 5'-10" variance from the minimum 15' clear vision requirement to allow a fence to be 9'-2" from the front driveway. In this case, the predominately open fence does not impede vehicles from entering or exiting the property. Staff finds that this request is not contrary as this distance does not propose any safety issues.**

- 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 fence to meet the minimum 15' clear vision requirement from the front driveway. This would result in an unnecessary as the fence is existing.**

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

**The fence is currently 9'-2" from the front driveway. Staff finds the spirit of the ordinance will be observed and substantial justice will be done with the requested variance as adequate sight distance is presented.**

- 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 distance will be 9'-2" from the front driveway, which is not likely to alter the essential character of the district as other fences were seen in the immediate area with similar clear vision distances.**

- 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 do not appear to be merely financial.**

**Alternative to Applicant's Request**

The alternative to the applicant's request is to conform to the Fence Height Regulations of the UDC Section 35-514 and Fence Clear Vision Area of the UDC Section 35-514 (a)(2).

**Staff Recommendation – Fence Height Special Exception**

Staff recommends Denial in BOA-23-10300089 based on the following findings of fact:

1. The fence will alter the character of the district; and
2. There are no other fences of this type in the immediate area.

**Staff Recommendation – Clear Vision Variance**

Staff recommends **Approval of** in **BOA-23-10300089** based on the following findings of fact:

1. The predominately open fence does not impede vehicles from entering or exiting the property.